

In the Senate of the United States,

May 19, 2004.

Resolved, That the bill from the House of Representatives (H.R. 1528) entitled “An Act to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; ETC.***

2 (a) *SHORT TITLE*.—*This Act may be cited as the “Tax*

3 *Administration Good Government Act”.*

1 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 2 *expressly provided, whenever in this Act an amendment or*
 3 *repeal is expressed in terms of an amendment to, or repeal*
 4 *of, a section or other provision, the reference shall be consid-*
 5 *ered to be made to a section or other provision of the Inter-*
 6 *nal Revenue Code of 1986.*

7 (c) *TABLE OF CONTENTS.*—*The table of contents for*
 8 *this Act is as follows:*

Sec. 1. Short title; etc.

TITLE I—IMPROVEMENTS IN TAX ADMINISTRATION AND TAXPAYER SAFEGUARDS

Subtitle A—Improvements in Efficiency and Safeguards in Internal Revenue Service Collection

Sec. 101. Waiver of user fee for installment agreements using automated withdrawals.

Sec. 102. Authorization for IRS to enter into installment agreements that provide for partial payment.

Sec. 103. Termination of installment agreements.

Sec. 104. Office of Chief Counsel review of offers-in-compromise.

Sec. 105. Authorization for IRS to require increased electronic filing of returns prepared by paid return preparers.

Sec. 106. Threshold on tolling of statute of limitations during review by Taxpayer Advocate Service.

Sec. 107. Increase in penalty for bad checks and money orders.

Sec. 108. Extension of time limit for contesting IRS levy.

Sec. 109. Individuals held harmless on improper levy on individual retirement plan.

Sec. 110. Authorization for Financial Management Service retention of transaction fees from levied amounts.

Sec. 111. Elimination of restriction on offsetting refunds from former residents.

Subtitle B—Processing and Personnel

Sec. 121. Information regarding statute of limitations.

Sec. 122. Annual report on IRS performance measures.

Sec. 123. Disclosure of tax information to facilitate combined employment tax reporting.

Sec. 124. Extension of declaratory judgment procedures to non-501(c)(3) tax-exempt organizations.

Sec. 125. Amendment to Treasury auction reforms.

Sec. 126. Revisions relating to termination of employment of IRS employees for misconduct.

Sec. 127. Expansion of IRS Oversight Board Authority.

Sec. 128. IRS Oversight Board approval of use of critical pay authority.

- Sec. 129. Low-income taxpayer clinics.*
- Sec. 130. Taxpayer access to financial institutions.*
- Sec. 131. Enrolled agents.*
- Sec. 132. Establishment of disaster response team.*
- Sec. 133. Study of accelerated tax refunds.*
- Sec. 134. Study on clarifying recordkeeping responsibilities.*
- Sec. 135. Streamline reporting process for National Taxpayer Advocate.*
- Sec. 136. IRS Free File program.*
- Sec. 137. Modification of TIGTA reporting requirements.*
- Sec. 138. Study of IRS accounts receivable.*
- Sec. 139. Electronic Commerce Advisory Group.*
- Sec. 140. Study on modifications to schedules L and M-1.*
- Sec. 141. Regulation of Federal income tax return preparers and refund anticipation loan providers.*
- Sec. 142. Joint task force on offers-in-compromise.*

Subtitle C—Other Provisions

- Sec. 151. Penalty for failure to report interests in foreign financial accounts.*
- Sec. 152. Repeal of application of below-market loan rules to amounts paid to certain continuing care facilities.*
- Sec. 153. Public support by Indian tribal governments.*
- Sec. 154. Payroll agents subject to penalty for failure to collect and pay over tax, or attempt to evade or defeat tax.*

TITLE II—REFORM OF PENALTY AND INTEREST

- Sec. 201. Individual estimated tax.*
- Sec. 202. Corporate estimated tax.*
- Sec. 203. Increase in large corporation threshold for estimated tax payments.*
- Sec. 204. Abatement of interest.*
- Sec. 205. Deposits made to suspend running of interest on potential underpayments.*
- Sec. 206. Freeze of provisions regarding suspension of interest where Secretary fails to contact taxpayer.*
- Sec. 207. Clarification of application of Federal tax deposit penalty.*
- Sec. 208. Frivolous tax returns and submissions.*
- Sec. 209. Extension of notice requirements with respect to interest and penalty calculations.*
- Sec. 210. Expansion of interest netting.*

TITLE III—UNITED STATES TAX COURT MODERNIZATION

Subtitle A—Tax Court Procedure

- Sec. 301. Jurisdiction of Tax Court over collection due process cases.*
- Sec. 302. Authority for special trial judges to hear and decide certain employment status cases.*
- Sec. 303. Confirmation of authority of Tax Court to apply doctrine of equitable recoupment.*
- Sec. 304. Tax Court filing fee in all cases commenced by filing petition.*
- Sec. 305. Amendments to appoint employees.*
- Sec. 306. Expanded use of Tax Court practice fee for pro se taxpayers.*

Subtitle B—Tax Court Pension and Compensation

- Sec. 311. Annuities for survivors of Tax Court judges who are assassinated.*

- Sec. 312. Cost-of-living adjustments for Tax Court judicial survivor annuities.*
- Sec. 313. Life insurance coverage for Tax Court judges.*
- Sec. 314. Cost of life insurance coverage for Tax Court judges age 65 or over.*
- Sec. 315. Modification of timing of lump-sum payment of judges' accrued annual leave.*
- Sec. 316. Participation of Tax Court judges in the Thrift Savings Plan.*
- Sec. 317. Exemption of teaching compensation of retired judges from limitation on outside earned income.*
- Sec. 318. General provisions relating to magistrate judges of the Tax Court.*
- Sec. 319. Annuities to surviving spouses and dependent children of magistrate judges of the Tax Court.*
- Sec. 320. Retirement and annuity program.*
- Sec. 321. Incumbent magistrate judges of the Tax Court.*
- Sec. 322. Provisions for recall.*
- Sec. 323. Effective date.*

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

- Sec. 401. Clarification of definition of church tax inquiry.*
- Sec. 402. Collection activities with respect to joint return disclosable to either spouse based on oral request.*
- Sec. 403. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.*
- Sec. 404. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.*
- Sec. 405. Compliance by contractors with confidentiality safeguards.*
- Sec. 406. Higher standards for requests for and consents to disclosure.*
- Sec. 407. Civil damages for unauthorized disclosure or inspection.*
- Sec. 408. Expansion of disclosure in emergency circumstances.*
- Sec. 409. Disclosure of taxpayer identity for tax refund purposes.*
- Sec. 410. Disclosure to State officials of proposed actions related to section 501(c) organizations.*
- Sec. 411. Treatment of public records.*
- Sec. 412. Employee identity disclosures.*
- Sec. 413. Taxpayer identification number matching.*
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TITLE V—SIMPLIFICATION

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- Sec. 501. Uniform definition of child, etc.*
- Sec. 502. Modifications of definition of head of household.*
- Sec. 503. Modifications of dependent care credit.*
- Sec. 504. Modifications of child tax credit.*
- Sec. 505. Modifications of earned income credit.*
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- Sec. 511. Simplification through elimination of inoperative provisions.*

TITLE VI—REVENUE PROVISIONS

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- Sec. 601. Penalty for failing to disclose reportable transaction.*
- Sec. 602. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.*
- Sec. 603. Modifications of substantial understatement penalty for nonreportable transactions.*
- Sec. 604. Tax shelter exception to confidentiality privileges relating to taxpayer communications.*
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- Sec. 606. Modifications to penalty for failure to register tax shelters.*
- Sec. 607. Modification of penalty for failure to maintain lists of investors.*
- Sec. 608. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.*
- Sec. 609. Understatement of taxpayer's liability by income tax return preparer.*
- Sec. 610. Regulation of individuals practicing before the Department of Treasury.*
- Sec. 611. Penalty on promoters of tax shelters.*
- Sec. 612. Statute of limitations for taxable years for which required listed transactions not reported.*
- Sec. 613. Denial of deduction for interest on underpayments attributable to tax-motivated transactions.*
- Sec. 614. Authorization of appropriations for tax law enforcement.*

PART II—OTHER CORPORATE GOVERNANCE PROVISIONS

- Sec. 621. Affirmation of consolidated return regulation authority.*
- Sec. 622. Declaration by chief executive officer relating to Federal annual income tax return of a corporation.*
- Sec. 623. Denial of deduction for certain fines, penalties, and other amounts.*
- Sec. 624. Disallowance of deduction for punitive damages.*
- Sec. 625. Increase in criminal monetary penalty for individuals to the amount of the tax at issue.*
- Sec. 626. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.*

PART III—EXTENSION OF IRS USER FEES

- Sec. 631. Extension of IRS user fees.*

PART IV—OTHER REVENUE PROVISIONS

- Sec. 641. Reporting of taxable mergers and acquisitions.*
- Sec. 642. Modification of definition of controlled group of corporations.*

1 ***TITLE I—IMPROVEMENTS IN TAX***
 2 ***ADMINISTRATION AND TAX-***
 3 ***PAYER SAFEGUARDS***

4 ***Subtitle A—Improvements in Effi-***
 5 ***ciency and Safeguards in Inter-***
 6 ***nal Revenue Service Collection***

7 ***SEC. 101. WAIVER OF USER FEE FOR INSTALLMENT AGREE-***
 8 ***MENTS USING AUTOMATED WITHDRAWALS.***

9 *(a) IN GENERAL.—Section 6159 (relating to agree-*
 10 *ments for payment of tax liability in installments) is*
 11 *amended by redesignating subsection (e) as subsection (f)*
 12 *and by inserting after subsection (d) the following:*

13 *“(e) WAIVER OF USER FEES FOR INSTALLMENT*
 14 *AGREEMENTS USING AUTOMATED WITHDRAWALS.—In the*
 15 *case of a taxpayer who enters into an installment agreement*
 16 *in which automated installment payments are agreed to,*
 17 *the Secretary shall waive the fee (if any) for entering into*
 18 *the installment agreement.”.*

19 *(b) EFFECTIVE DATE.—The amendments made by this*
 20 *section shall apply to agreements entered into on or after*
 21 *the date which is 180 days after the date of the enactment*
 22 *of this Act.*

1 **SEC. 102. AUTHORIZATION FOR IRS TO ENTER INTO IN-**
 2 **STALLMENT AGREEMENTS THAT PROVIDE**
 3 **FOR PARTIAL PAYMENT.**

4 (a) *IN GENERAL.*—

5 (1) *Section 6159(a) (relating to authorization of*
 6 *agreements) is amended—*

7 (A) *by striking “satisfy liability for pay-*
 8 *ment of” and inserting “make payment on”, and*

9 (B) *by inserting “full or partial” after “fa-*
 10 *cilitate”.*

11 (2) *Section 6159(c) (relating to Secretary re-*
 12 *quired to enter into installment agreements in certain*
 13 *cases) is amended in the matter preceding paragraph*
 14 *(1) by inserting “full” before “payment”.*

15 (b) *REQUIREMENT TO REVIEW PARTIAL PAYMENT*
 16 *AGREEMENTS EVERY TWO YEARS.*—*Section 6159, as*
 17 *amended by this Act, is amended by redesignating sub-*
 18 *sections (d), (e), and (f) as subsections (e), (f), and (g), re-*
 19 *spectively, and inserting after subsection (c) the following*
 20 *new subsection:*

21 “(d) *SECRETARY REQUIRED TO REVIEW INSTALL-*
 22 *MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO*
 23 *YEARS.*—*In the case of an agreement entered into by the*
 24 *Secretary under subsection (a) for partial collection of a*
 25 *tax liability, the Secretary shall review the agreement at*
 26 *least once every 2 years with the primary purpose of deter-*

1 *mining whether the financial condition of the taxpayer has*
 2 *significantly changed so as to warrant an increase in the*
 3 *value of the payments being made.”.*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
 5 *section shall apply to agreements entered into on or after*
 6 *the date of the enactment of this Act.*

7 **SEC. 103. TERMINATION OF INSTALLMENT AGREEMENTS.**

8 *(a) IN GENERAL.—Section 6159(b)(4) (relating to fail-*
 9 *ure to pay an installment or any other tax liability when*
 10 *due or to provide requested financial information) is*
 11 *amended by striking “or” at the end of subparagraph (B),*
 12 *by redesignating subparagraph (C) as subparagraph (E),*
 13 *and by inserting after subparagraph (B) the following:*

14 *“(C) to make a Federal tax deposit under*
 15 *section 6302 at the time such deposit is required*
 16 *to be made,*

17 *“(D) to file a return of tax imposed under*
 18 *this title by its due date (including extensions),*
 19 *or”.*

20 *(b) CONFORMING AMENDMENT.—Section 6159(b)(4) is*
 21 *amended by striking “FAILURE TO PAY AN INSTALLMENT*
 22 *OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE*
 23 *REQUESTED FINANCIAL INFORMATION” and inserting*
 24 *“FAILURE TO MAKE PAYMENTS OR DEPOSITS OR FILE RE-*

1 *turns when due or to provide requested financial*
 2 *information”.*

3 *(c) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to failures occurring on or after the date*
 5 *of the enactment of this Act.*

6 **SEC. 104. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-**
 7 **IN-COMPROMISE.**

8 *(a) IN GENERAL.—Section 7122(b) (relating to record)*
 9 *is amended by striking “Whenever a compromise” and all*
 10 *that follows through “his delegate” and inserting “If the*
 11 *Secretary determines that an opinion of the General Coun-*
 12 *sel for the Department of the Treasury, or the Counsel’s del-*
 13 *egate, is required with respect to a compromise, there shall*
 14 *be placed on file in the office of the Secretary such opinion”.*

15 *(b) CONFORMING AMENDMENTS.—Section 7122(b) is*
 16 *amended by striking the second and third sentences.*

17 *(c) EFFECTIVE DATE.—The amendments made by this*
 18 *section shall apply to offers-in-compromise submitted or*
 19 *pending on or after the date of the enactment of this Act.*

20 **SEC. 105. AUTHORIZATION FOR IRS TO REQUIRE IN-**
 21 **CREASED ELECTRONIC FILING OF RETURNS**
 22 **PREPARED BY PAID RETURN PREPARERS.**

23 *(a) IN GENERAL.—Section 6011(e) (relating to regula-*
 24 *tions requiring returns on magnetic media, etc.) is*
 25 *amended—*

1 (1) *by striking the second sentence in paragraph*
 2 (1), *and*

3 (2) *by striking “250” in paragraph (2)(A) and*
 4 *inserting “5”.*

5 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall take effect on the date of the enactment of this*
 7 *Act.*

8 **SEC. 106. THRESHOLD ON TOLLING OF STATUTE OF LIMITA-**
 9 **TIONS DURING REVIEW BY TAXPAYER ADVOCATE SERVICE.**
 10

11 (a) *IN GENERAL.*—*Section 7811(d)(1) (relating to sus-*
 12 *pension of running of period of limitation) is amended by*
 13 *inserting after “such application,” the following: “but only*
 14 *if the date of such decision is at least 7 days after the date*
 15 *of the taxpayer’s application”.*

16 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 17 *section shall apply to applications filed after the date of*
 18 *the enactment of this Act.*

19 **SEC. 107. INCREASE IN PENALTY FOR BAD CHECKS AND**
 20 **MONEY ORDERS.**

21 (a) *IN GENERAL.*—*Section 6657 (relating to bad*
 22 *checks) is amended—*

23 (1) *by striking “\$750” and inserting “\$1,250”,*
 24 *and*

25 (2) *by striking “\$15” and inserting “\$25”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section apply to checks or money orders received after the*
 3 *date of the enactment of this Act.*

4 **SEC. 108. EXTENSION OF TIME LIMIT FOR CONTESTING IRS**
 5 **LEVY.**

6 (a) *EXTENSION OF TIME FOR RETURN OF PROPERTY*
 7 *SUBJECT TO LEVY.*—*Subsection (b) of section 6343 (relat-*
 8 *ing to return of property) is amended by striking “9*
 9 *months” and inserting “2 years”.*

10 (b) *PERIOD OF LIMITATION ON SUITS.*—*Subsection (c)*
 11 *of section 6532 (relating to suits by persons other than tax-*
 12 *payers) is amended—*

13 (1) *in paragraph (1) by striking “9 months”*
 14 *and inserting “2 years”, and*

15 (2) *in paragraph (2) by striking “9-month” and*
 16 *inserting “2-year”.*

17 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 18 *section shall apply to—*

19 (1) *levies made after the date of the enactment*
 20 *of this Act, and*

21 (2) *levies made on or before such date if the 9-*
 22 *month period has not expired under section 6343(b)*
 23 *of the Internal Revenue Code of 1986 (without regard*
 24 *to this section) as of such date.*

1 **SEC. 109. INDIVIDUALS HELD HARMLESS ON IMPROPER**
 2 **LEVY ON INDIVIDUAL RETIREMENT PLAN.**

3 (a) *IN GENERAL.*—Section 6343 (relating to authority
 4 to release levy and return property) is amended by adding
 5 at the end the following new subsection:

6 “(f) *INDIVIDUALS HELD HARMLESS ON WRONGFUL*
 7 *LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.*—

8 “(1) *IN GENERAL.*—If the Secretary determines
 9 that an individual retirement plan has been levied
 10 upon in a case to which subsection (b) or (d)(2)(A)
 11 applies and an amount is returned to the individual
 12 who is the beneficiary of such plan, the individual
 13 may deposit an amount equal to the sum of—

14 “(A) the amount of money returned by the
 15 Secretary on account of such levy, and

16 “(B) interest paid under subsection (c) on
 17 such amount of money,
 18 into an individual retirement plan (other than an en-
 19 dowment contract) to which a rollover from the plan
 20 levied upon is permitted.

21 “(2) *TREATMENT AS ROLLOVER.*—The distribu-
 22 tion on account of the levy and any deposit under
 23 paragraph (1) with respect to such distribution shall
 24 be treated for purposes of this title as if such distribu-
 25 tion and deposit were part of a rollover described in
 26 section 408(d)(3)(A)(i); except that—

1 “(A) interest paid under subsection (c) shall
2 be treated as part of such distribution and as not
3 includible in gross income,

4 “(B) the 60-day requirement in such section
5 shall be treated as met if the deposit is made not
6 later than the 60th day after the day on which
7 the individual receives an amount under para-
8 graph (1) from the Secretary, and

9 “(C) such deposit shall not be taken into ac-
10 count under section 408(d)(3)(B).

11 “(3) REFUND, ETC., OF INCOME TAX ON LEVY.—
12 If any amount is includible in gross income for a tax-
13 able year by reason of a levy referred to in paragraph
14 (1) and any portion of such amount is treated as a
15 rollover under paragraph (2), any tax imposed by
16 chapter 1 on such portion shall not be assessed, and
17 if assessed shall be abated, and if collected shall be
18 credited or refunded as an overpayment made on the
19 due date for filing the return of tax for such taxable
20 year.

21 “(4) INTEREST.—Notwithstanding subsection
22 (d), interest shall be allowed under subsection (c) in
23 a case in which the Secretary makes a determination
24 described in subsection (d)(2)(A) with respect to a
25 levy upon an individual retirement plan.”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to amounts paid under subsections (b),*
 3 *(c), and (d)(2)(A) of section 6343 of the Internal Revenue*
 4 *Code of 1986 after December 31, 2004.*

5 **SEC. 110. AUTHORIZATION FOR FINANCIAL MANAGEMENT**

6 **SERVICE RETENTION OF TRANSACTION FEES**
 7 **FROM LEVIED AMOUNTS.**

8 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
 9 *sion of law, the Financial Management Service may charge*
 10 *the Internal Revenue Service, and the Internal Revenue*
 11 *Service may pay the Financial Management Service, a fee*
 12 *sufficient to cover the full cost of implementing a continuous*
 13 *levy program under subsection (h) of section 6331 of the*
 14 *Internal Revenue Code of 1986. Any such fee shall be based*
 15 *on actual levies made and shall be collected by the Finan-*
 16 *cial Management Service by the retention of a portion of*
 17 *amounts collected by levy pursuant to that subsection.*
 18 *Amounts received by the Financial Management Service as*
 19 *fees under that subsection shall be deposited into the account*
 20 *of the Department of the Treasury under section 3711(g)(7)*
 21 *of title 31, United States Code, and shall be collected and*
 22 *accounted for in accordance with the provisions of that sec-*
 23 *tion. The amount credited against the taxpayer's liability*
 24 *on account of the continuous levy shall be the amount levied,*

1 *without reduction for the amount paid to the Financial*
 2 *Management Service as a fee.*

3 (b) *EFFECTIVE DATE.*—*The provisions of this section*
 4 *shall take effect on the date of the enactment of this Act.*

5 **SEC. 111. ELIMINATION OF RESTRICTION ON OFFSETTING**
 6 **REFUNDS FROM FORMER RESIDENTS.**

7 (a) *IN GENERAL.*—*Section 6402(e) (relating to collec-*
 8 *tion of past-due, legally enforceable State income tax obliga-*
 9 *tions) is amended by striking paragraph (2) and by redesign-*
 10 *ating paragraphs (3), (4), (5), (6), and (7) as paragraphs*
 11 *(2), (3), (4), (5), and (6), respectively.*

12 (b) *CLARIFICATION OF DISCLOSURE AUTHORITY.*—
 13 *Section 6103(l)(10) (relating to disclosure of certain infor-*
 14 *mation to agencies requesting a reduction under subsection*
 15 *(c), (d), or (e) or section 6402) is amended—*

16 (1) *by striking “, (d), or (e)” each place it ap-*
 17 *pears and inserting “or (d)”, and*

18 (2) *by striking “, (d), OR (e)” in the heading and*
 19 *inserting “OR (d)”.*

20 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 21 *section shall take effect on the date of the enactment of this*
 22 *Act.*

***Subtitle B—Processing and
Personnel***

SEC. 121. INFORMATION REGARDING STATUTE OF LIMITATIONS.

The Secretary of the Treasury or the Secretary's delegate shall—

(1) as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and

(2) for taxable years beginning after December 31, 2004, revise any instructions booklet accompanying a general income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto),

to provide for an explanation of the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds, and the consequences under such section 6511 of the failure to file a return of tax.

SEC. 122. ANNUAL REPORT ON IRS PERFORMANCE MEASURES.

(a) IN GENERAL.—Section 7803(a) (relating to Commissioner of Internal Revenue) is amended by adding at the end the following new paragraph:

1 “(4) *ANNUAL REPORT ON IRS PERFORMANCE*
2 *MEASURES.*—*Not later than December 31 of each cal-*
3 *endar year, the Commissioner shall report to Congress*
4 *and the Oversight Board on performance goals and*
5 *projections for the 5-fiscal-year period beginning with*
6 *the fiscal year ending in such calendar year against*
7 *which to measure the performance of the Internal*
8 *Revenue Service in the areas of the public rating of*
9 *the Internal Revenue Service, customer service, com-*
10 *pliance, and management initiatives. The report shall*
11 *include the long-term performance goal for each meas-*
12 *urement and a brief narrative explaining how the*
13 *Commissioner plans to meet each goal. For each per-*
14 *formance goal, the report shall include comparisons*
15 *between the projected performance level and actual*
16 *performance level. For each performance measure-*
17 *ment, the report shall include a volume projection for*
18 *such period. If the Internal Revenue Service fails to*
19 *achieve one of its goals, the report shall explain why.*
20 *The report shall also include data and a narrative re-*
21 *garding the actual and projected level of the workload*
22 *and resources of the Internal Revenue Service for such*
23 *5-year period.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to reports for fiscal year 2004 and there-*
 3 *after.*

4 **SEC. 123. DISCLOSURE OF TAX INFORMATION TO FACILI-**
 5 **TATE COMBINED EMPLOYMENT TAX REPORT-**
 6 **ING.**

7 (a) *IN GENERAL.*—*Paragraph (5) of section 6103(d)*
 8 *(relating to disclosure to State tax officials and State and*
 9 *local law enforcement agencies) is amended to read as fol-*
 10 *lows:*

11 “(5) *DISCLOSURE FOR COMBINED EMPLOYMENT*
 12 *TAX REPORTING.*—*The Secretary shall disclose tax-*
 13 *payer identity information and signatures to any*
 14 *agency, body, or commission of any State for the pur-*
 15 *pose of carrying out with such agency, body, or com-*
 16 *mission a combined Federal and State employment*
 17 *tax reporting program approved by the Secretary.*
 18 *Subsections (a)(2) and (p)(4) and sections 7213 and*
 19 *7213A shall not apply with respect to disclosures or*
 20 *inspections made pursuant to this paragraph.”.*

21 (b) *EFFECTIVE DATE.*—*The amendment made by*
 22 *this section shall take effect on the date of the enact-*
 23 *ment of this Act.*

1 **SEC. 124. EXTENSION OF DECLARATORY JUDGMENT PROCE-**
 2 **DURES TO NON-501(c)(3) TAX-EXEMPT ORGA-**
 3 **NIZATIONS.**

4 (a) *IN GENERAL.*—Paragraph (1) of section 7428(a)
 5 (relating to creation of remedy) is amended—

6 (1) in subparagraph (B) by inserting after
 7 “509(a))” the following: “or as a private operating
 8 foundation (as defined in section 4942(j)(3))”; and

9 (2) by amending subparagraph (C) to read as
 10 follows:

11 “(C) with respect to the initial qualification
 12 or continuing qualification of an organization as
 13 an organization described in section 501(c)
 14 (other than paragraph (3)) or 501(d) which is
 15 exempt from tax under section 501(a), or”.

16 (b) *COURT JURISDICTION.*—Subsection (a) of section
 17 7428 is amended in the material following paragraph (2)
 18 by striking “United States Tax Court, the United States
 19 Claims Court, or the district court of the United States for
 20 the District of Columbia” and inserting the following:
 21 “United States Tax Court (in the case of any such deter-
 22 mination or failure) or the United States Claims Court or
 23 the district court of the United States for the District of
 24 Columbia (in the case of a determination or failure with
 25 respect to an issue referred to in subparagraph (A) or (B)
 26 of paragraph (1)),”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to pleadings filed with respect to deter-*
 3 *minations (or requests for determinations) made after De-*
 4 *cember 31, 2004.*

5 **SEC. 125. AMENDMENT TO TREASURY AUCTION REFORMS.**

6 (a) *IN GENERAL.*—*Clause (i) of section 202(c)(4)(B)*
 7 *of the Government Securities Act Amendments of 1993 (31*
 8 *U.S.C. 3121 note) is amended by inserting before the semi-*
 9 *colon “(or, if earlier, at the time the Secretary releases the*
 10 *minutes of the meeting in accordance with paragraph (2))”.*

11 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 12 *section shall apply to meetings held after the date of the*
 13 *enactment of this Act.*

14 **SEC. 126. REVISIONS RELATING TO TERMINATION OF EM-**
 15 **PLOYMENT OF IRS EMPLOYEES FOR MIS-**
 16 **CONDUCT.**

17 (a) *IN GENERAL.*—*Subchapter A of chapter 80 (relat-*
 18 *ing to application of internal revenue laws) is amended by*
 19 *inserting after section 7804 the following new section:*

20 **“SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MIS-**
 21 **CONDUCT.**

22 “(a) *IN GENERAL.*—*Subject to subsection (c), the Com-*
 23 *missioner shall terminate the employment of any employee*
 24 *of the Internal Revenue Service if there is a final adminis-*
 25 *trative or judicial determination that such employee com-*

1 *mitted any act or omission described under subsection (b)*
 2 *in the performance of the employee’s official duties. Such*
 3 *termination shall be a removal for cause on charges of mis-*
 4 *conduct.*

5 “(b) *ACTS OR OMISSIONS.*—*The acts or omissions de-*
 6 *scribed under this subsection are—*

7 “(1) *willful failure to obtain the required ap-*
 8 *proval signatures on documents authorizing the sei-*
 9 *zure of a taxpayer’s home, personal belongings, or*
 10 *business assets,*

11 “(2) *providing a false statement under oath with*
 12 *respect to a material matter involving a taxpayer or*
 13 *taxpayer representative,*

14 “(3) *with respect to a taxpayer or taxpayer rep-*
 15 *resentative, the violation of—*

16 “(A) *any right under the Constitution of the*
 17 *United States, or*

18 “(B) *any civil right established under—*

19 “(i) *title VI or VII of the Civil Rights*
 20 *Act of 1964,*

21 “(ii) *title IX of the Education Amend-*
 22 *ments of 1972,*

23 “(iii) *the Age Discrimination in Em-*
 24 *ployment Act of 1967,*

1 “(iv) *the Age Discrimination Act of*
2 *1975,*

3 “(v) *section 501 or 504 of the Rehabili-*
4 *tation Act of 1973, or*

5 “(vi) *title I of the Americans with Dis-*
6 *abilities Act of 1990,*

7 “(4) *falsifying or destroying documents to con-*
8 *ceal mistakes made by any employee with respect to*
9 *a matter involving a taxpayer or taxpayer represent-*
10 *ative,*

11 “(5) *assault or battery on a taxpayer or tax-*
12 *payer representative, but only if there is a criminal*
13 *conviction, or a final judgment by a court in a civil*
14 *case, with respect to the assault or battery,*

15 “(6) *violations of this title, Department of the*
16 *Treasury regulations, or policies of the Internal Rev-*
17 *enue Service (including the Internal Revenue Man-*
18 *ual) for the purpose of retaliating against, or*
19 *harassing, a taxpayer or taxpayer representative,*

20 “(7) *willful misuse of the provisions of section*
21 *6103 for the purpose of concealing information from*
22 *a congressional inquiry,*

23 “(8) *willful failure to file any return of tax re-*
24 *quired under this title on or before the date prescribed*
25 *therefor (including any extensions) when a tax is due*

1 and owing, unless such failure is due to reasonable
2 cause and not due to willful neglect,

3 “(9) willful understatement of Federal tax liabil-
4 ity, unless such understatement is due to reasonable
5 cause and not due to willful neglect, and

6 “(10) threatening to audit a taxpayer for the
7 purpose of extracting personal gain or benefit.

8 “(c) *DETERMINATIONS OF COMMISSIONER.*—

9 “(1) *IN GENERAL.*—The Commissioner may take
10 a personnel action other than termination for an act
11 or omission described under subsection (b).

12 “(2) *DISCRETION.*—The exercise of authority
13 under paragraph (1) shall be at the sole discretion of
14 the Commissioner and may not be delegated to any
15 other officer. The Commissioner, in the Commis-
16 sioner’s sole discretion, may establish a procedure
17 which will be used to determine whether an indi-
18 vidual should be referred to the Commissioner for a
19 determination by the Commissioner under paragraph
20 (1).

21 “(3) *NO APPEAL.*—Any determination of the
22 Commissioner under this subsection may not be ap-
23 pealed in any administrative or judicial proceeding.

24 “(d) *DEFINITION.*—For the purposes of the provisions
25 described in clauses (i), (ii), and (iv) of subsection

1 (b)(3)(B), references to a program or activity regarding
 2 Federal financial assistance or an education program or
 3 activity receiving Federal financial assistance shall include
 4 any program or activity conducted by the Internal Revenue
 5 Service for a taxpayer.”.

6 (b) CLERICAL AMENDMENT.—The table of sections for
 7 chapter 80 is amended by inserting after the item relating
 8 to section 7804 the following new item:

“Sec. 7804A. Termination of employment for misconduct.”.

9 (c) REPEAL OF SUPERSEDED SECTION.—Section 1203
 10 of the Internal Revenue Service Restructuring and Reform
 11 Act of 1998 (Public Law 105–206; 112 Stat. 720) is re-
 12 pealed.

13 (d) EFFECTIVE DATE.—The amendments made by this
 14 section shall take effect on the date of the enactment of this
 15 Act.

16 **SEC. 127. EXPANSION OF IRS OVERSIGHT BOARD AUTHOR-**
 17 **ITY.**

18 (a) APPROVAL WITH RESPECT TO SENIOR EXECU-
 19 TIVES.—Section 7802(d)(3)(B) (relating to management) is
 20 amended by inserting “and approve” after “review”.

21 (b) REPORTS.—

22 (1) BUDGET REQUEST.—Section 7802(d) (relat-
 23 ing to specific responsibilities) is amended—

24 (A) by inserting “with detailed analysis”
 25 after “budget request” in paragraph (4)(B), and

1 (B) by inserting “without any additional
 2 review or comment from the Commissioner, the
 3 Secretary, any other officer or employee of the
 4 Department of the Treasury, or the Office of
 5 Management and Budget” before “to the Presi-
 6 dent” in the last sentence thereof.

7 (2) *DATE OF SUBMISSION OF ANNUAL REPORT.*—
 8 Section 7802(f)(3)(A) (relating to annual reports) is
 9 amended by striking “The Oversight Board shall each
 10 year report” and insert “Not later than March 1 of
 11 each calendar year, the Oversight Board shall report”.

12 (c) *CONTINUITY IN OFFICE.*—Section 7802(b)(2) (re-
 13 lating to qualifications and terms) is amended by adding
 14 at the end the following new subparagraph:

15 “(E) *CONTINUATION IN OFFICE.*—Any
 16 member whose term expires shall serve until the
 17 earlier of the date on which the member’s suc-
 18 cessor takes office or the date which is 1 year
 19 after the date of the expiration of the member’s
 20 term.

21 (d) *ACCESS TO HEALTH BENEFITS.*—Section 7802(e)
 22 (relating to Board personnel matters) is amended by adding
 23 at the end the following new paragraph:

24 “(5) *MEMBERS ACCESS TO FEHBP.*—Each mem-
 25 ber of the Oversight Board who—

1 “(A) is described in subsection (b)(1)(A), or
 2 “(B) is described in subsection (b)(1)(D)
 3 and is not otherwise a Federal officer or em-
 4 ployee,
 5 shall be considered an employee solely for purposes of
 6 chapter 89 of title 5, United States Code.”.

7 (e) *DIRECTOR OF INTERNAL REVENUE SERVICE OVER-*
 8 *SIGHT BOARD.*—Subsection (e) of section 7802, as amended
 9 by subsection (d), is amended by redesignating paragraphs
 10 (3), (4), and (5) as paragraphs (4), (5), and (6), respec-
 11 tively, and by inserting after paragraph (2) the following
 12 new paragraph:

13 “(3) *DIRECTOR.*—The Chairperson of the Over-
 14 sight Board shall, without regard to the provisions of
 15 title 5, United States Code, governing appointments
 16 in the competitive service, appoint a Director for the
 17 Oversight Board. The Director shall be paid at the
 18 same rate as the highest-rate of basic pay established
 19 for the Senior Executive Service under section 5382
 20 of title 5, United States Code.”.

21 (f) *EFFECTIVE DATE.*—The amendments made by this
 22 section shall take effect on the date of the enactment of this
 23 Act.

1 **SEC. 128. IRS OVERSIGHT BOARD APPROVAL OF USE OF**
 2 **CRITICAL PAY AUTHORITY.**

3 (a) *IN GENERAL.*—Section 7802(d)(3) (relating to
 4 management) is amended by striking “and” at the end of
 5 subparagraph (B), by striking the period at the end of sub-
 6 paragraph (C) and inserting “; and”, and by adding at
 7 the end the following new subparagraph:

8 “(D) review and approve the Commis-
 9 sioner’s use of critical pay authority under sec-
 10 tion 9502 of title 5, United States Code, and
 11 streamlined critical pay authority under section
 12 9503 of such title.”.

13 (b) *EFFECTIVE DATE.*—The amendments made by this
 14 section shall apply to personnel hired after the date of the
 15 enactment of this Act.

16 **SEC. 129. LOW-INCOME TAXPAYER CLINICS.**

17 (a) *GRANTS FOR RETURN PREPARATION CLINICS.*—

18 (1) *IN GENERAL.*—Chapter 77 (relating to mis-
 19 cellaneous provisions) is amended by inserting after
 20 section 7526 the following new section:

21 **“SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-IN-**
 22 **COME TAXPAYERS.**

23 “(a) *IN GENERAL.*—The Secretary may, subject to the
 24 availability of appropriated funds, make grants to provide
 25 matching funds for the development, expansion, or continu-
 26 ation of qualified return preparation clinics.

1 “(b) *DEFINITIONS.*—*For purposes of this section—*

2 “(1) *QUALIFIED RETURN PREPARATION CLINIC.*—

3 *IC.*—

4 “(A) *IN GENERAL.*—*The term ‘qualified re-*

5 *turn preparation clinic’ means a clinic which—*

6 “(i) *does not charge more than a nomi-*

7 *nal fee for its services (except for reimburse-*

8 *ment of actual costs incurred), and*

9 “(ii) *operates programs which assist*

10 *low-income taxpayers in preparing and fil-*

11 *ing their Federal income tax returns, in-*

12 *cluding schedules reporting sole proprietor-*

13 *ship or farm income.*

14 “(B) *ASSISTANCE TO LOW-INCOME TAX-*

15 *PAYERS.*—*A clinic is treated as assisting low-in-*

16 *come taxpayers under subparagraph (A)(ii) if at*

17 *least 90 percent of the taxpayers assisted by the*

18 *clinic have incomes which do not exceed 250 per-*

19 *cent of the poverty level, as determined in ac-*

20 *cordance with criteria established by the Director*

21 *of the Office of Management and Budget.*

22 “(2) *CLINIC.*—*The term ‘clinic’ includes—*

23 “(A) *a clinical program at an eligible edu-*

24 *cational institution (as defined in section*

25 *529(e)(5)) which satisfies the requirements of*

1 *paragraph (1) through student assistance of tax-*
 2 *payers in return preparation and filing, and*

3 “(B) *an organization described in section*
 4 *501(c) and exempt from tax under section 501(a)*
 5 *which satisfies the requirements of paragraph*
 6 *(1).*

7 “(c) *SPECIAL RULES AND LIMITATIONS.—*

8 “(1) *AGGREGATE LIMITATION.—Unless otherwise*
 9 *provided by specific appropriation, the Secretary*
 10 *shall not allocate more than \$10,000,000 per year (ex-*
 11 *clusive of costs of administering the program) to*
 12 *grants under this section.*

13 “(2) *OTHER APPLICABLE RULES.—Rules similar*
 14 *to the rules under paragraphs (2) through (7) of sec-*
 15 *tion 7526(c) shall apply with respect to the awarding*
 16 *of grants to qualified return preparation clinics.”.*

17 “(2) *CLERICAL AMENDMENT.—The table of sec-*
 18 *tions for chapter 77 is amended by inserting after the*
 19 *item relating to section 7526 the following new item:*

“Sec. 7526A. *Return preparation clinics for low-income tax-*
payers.”.

20 “(b) *GRANTS FOR TAXPAYER REPRESENTATION AND*
 21 *ASSISTANCE CLINICS.—*

22 “(1) *INCREASE IN AUTHORIZED GRANTS.—Section*
 23 *7526(c)(1) (relating to aggregate limitation) is*

1 amended by striking “\$6,000,000” and inserting
2 “\$10,000,000”.

3 (2) *USE OF GRANTS FOR OVERHEAD EXPENSES*
4 *PROHIBITED.*—

5 (A) *IN GENERAL.*—Section 7526(c) (relating
6 to special rules and limitations) is amended by
7 adding at the end the following new paragraph:

8 “(6) *USE OF GRANTS FOR OVERHEAD EXPENSES*
9 *PROHIBITED.*—No grant made under this section may
10 be used for the overhead expenses of any clinic or of
11 any institution sponsoring such clinic.”.

12 (B) *CONFORMING AMENDMENTS.*—Section
13 7526(c)(5) is amended—

14 (i) by inserting “qualified” before
15 “low-income”, and

16 (ii) by striking the last sentence.

17 (3) *PROMOTION OF CLINICS.*—Section 7526(c),
18 as amended by paragraph (2), is amended by adding
19 at the end the following new paragraph:

20 “(7) *PROMOTION OF CLINICS.*—The Secretary is
21 authorized to promote the benefits of and encourage
22 the use of low-income taxpayer clinics through the use
23 of mass communications, referrals, and other means.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to grants made after the date of the en-*
 3 *actment of this Act.*

4 **SEC. 130. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.**

5 (a) *ESTABLISHMENT OF PROGRAM.*—*The Secretary is*
 6 *authorized to award demonstration project grants (includ-*
 7 *ing multi-year grants) to eligible entities to provide tax*
 8 *preparation services and assistance in connection with es-*
 9 *tablishing an account in a federally insured depository in-*
 10 *stitution for individuals that currently do not have such*
 11 *an account.*

12 (b) *ELIGIBLE ENTITIES.*—

13 (1) *IN GENERAL.*—*An entity is eligible to receive*
 14 *a grant under this section if such an entity is—*

15 (A) *an organization described in section*
 16 *501(c)(3) of the Internal Revenue Code of 1986*
 17 *and exempt from tax under section 501(a) of*
 18 *such Code,*

19 (B) *a federally insured depository institu-*
 20 *tion,*

21 (C) *an agency of a State or local govern-*
 22 *ment,*

23 (D) *a community development financial in-*
 24 *stitution,*

25 (E) *an Indian tribal organization,*

1 (F) an Alaska Native Corporation,

2 (G) a Native Hawaiian organization,

3 (H) a labor organization, or

4 (I) a partnership comprised of 1 or more of
5 the entities described in the preceding subpara-
6 graphs.

7 (2) DEFINITIONS.—For purposes of this
8 section—

9 (A) FEDERALLY INSURED DEPOSITORY IN-
10 STITUTION.—The term “federally insured deposi-
11 tory institution” means any insured depository
12 institution (as defined in section 3 of the Federal
13 Deposit Insurance Act (12 U.S.C. 1813)) and
14 any insured credit union (as defined in section
15 101 of the Federal Credit Union Act (12 U.S.C.
16 1752)).

17 (B) COMMUNITY DEVELOPMENT FINANCIAL
18 INSTITUTION.—The term “community develop-
19 ment financial institution” means any organiza-
20 tion that has been certified as such pursuant to
21 section 1805.201 of title 12, Code of Federal Reg-
22 ulations.

23 (C) ALASKA NATIVE CORPORATION.—The
24 term “Alaska Native Corporation” has the same
25 meaning as the term “Native Corporation”

1 *under section 3(m) of the Alaska Native Claims*
 2 *Settlement Act (43 U.S.C. 1602(m)).*

3 *(D) NATIVE HAWAIIAN ORGANIZATION.—The*
 4 *term “Native Hawaiian organization” means*
 5 *any organization that—*

6 *(i) serves and represents the interests of*
 7 *Native Hawaiians, and*

8 *(ii) has as a primary and stated pur-*
 9 *pose the provision of services to Native Ha-*
 10 *waiians.*

11 *(E) LABOR ORGANIZATION.—The term*
 12 *“labor organization” means an organization—*

13 *(i) in which employees participate,*

14 *(ii) which exists for the purpose, in*
 15 *whole or in part, of dealing with employers*
 16 *concerning grievances, labor disputes,*
 17 *wages, rates of pay, hours of employment,*
 18 *or conditions of work, and*

19 *(iii) which is described in section*
 20 *501(c)(5).*

21 *(c) APPLICATION.—An eligible entity desiring a grant*
 22 *under this section shall submit an application to the Sec-*
 23 *retary in such form and containing such information as*
 24 *the Secretary may require.*

1 (d) *LIMITATION ON ADMINISTRATIVE COSTS.*—A re-
 2 cipient of a grant under this section may not use more than
 3 6 percent of the total amount of such grant in any fiscal
 4 year for the administrative costs of carrying out the pro-
 5 grams funded by such grant in such fiscal year.

6 (e) *EVALUATION AND REPORT.*—For each fiscal year
 7 in which a grant is awarded under this section, the Sec-
 8 retary shall submit a report to Congress containing a de-
 9 scription of the activities funded, amounts distributed, and
 10 measurable results, as appropriate and available.

11 (f) *AUTHORIZATION OF APPROPRIATIONS.*—There is
 12 authorized to be appropriated to the Secretary, for the grant
 13 program described in this section, \$10,000,000, or such ad-
 14 ditional amounts as deemed necessary, to remain available
 15 until expended.

16 (g) *REGULATIONS.*—The Secretary is authorized to
 17 promulgate regulations to implement and administer the
 18 grant program under this section.

19 **SEC. 131. ENROLLED AGENTS.**

20 (a) *IN GENERAL.*—Chapter 77 (relating to miscella-
 21 neous provisions) is amended by adding at the end the fol-
 22 lowing new section:

23 **“SEC. 7529. ENROLLED AGENTS.**

24 “(a) *IN GENERAL.*—The Secretary may prescribe such
 25 regulations as may be necessary to regulate the conduct of

1 *enrolled agents in regards to their practice before the Inter-*
 2 *nal Revenue Service.*

3 “(b) *USE OF CREDENTIALS.*—*Any enrolled agents*
 4 *properly licensed to practice as required under rules pro-*
 5 *mulgated under section (a) herein shall be allowed to use*
 6 *the credentials or designation as ‘enrolled agent’, ‘EA’, or*
 7 *‘E.A.’.”.*

8 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 9 *chapter 77 is amended by adding at the end the following*
 10 *new item:*

“Sec. 7529. Enrolled agents.”.

11 (c) *PRIOR REGULATIONS.*—*The authorization to pre-*
 12 *scribe regulations under the amendments made by this sec-*
 13 *tion may not be construed to have any effect on part 10*
 14 *of title 31, Code of Federal Regulations, or any other related*
 15 *Federal rule or regulation issued before the date of the en-*
 16 *actment of this Act.*

17 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 18 *section shall take effect on the date of the enactment of this*
 19 *Act.*

20 **SEC. 132. ESTABLISHMENT OF DISASTER RESPONSE TEAM.**

21 (a) *IN GENERAL.*—*Section 7803 (relating to Commis-*
 22 *sioner of Internal Revenue; other officials) is amended by*
 23 *adding at the end the following new subsection:*

24 “(e) *DISASTER RESPONSE TEAM.*—

1 “(1) *RESPONSE TO DISASTERS.*—*The Secretary*
2 *shall—*

3 “(A) *establish as a permanent office in the*
4 *national office of the Internal Revenue Service a*
5 *disaster response team composed of members,*
6 *who in addition to their regular responsibilities,*
7 *shall assist taxpayers in clarifying and resolving*
8 *Federal tax matters associated with or resulting*
9 *from any Presidentially declared disaster (as de-*
10 *finied in section 1033(h)(3)), and*

11 “(B) *respond to requests by such taxpayers*
12 *for filing extensions and technical guidance expe-*
13 *ditiously.*

14 “(2) *PERSONNEL OF DISASTER RESPONSE*
15 *TEAM.*—*The disaster response team shall be composed*
16 *of—*

17 “(A) *personnel from the Office of the Tax-*
18 *payer Advocate, and*

19 “(B) *personnel from the national office of*
20 *the Internal Revenue Service with expertise in*
21 *individual, corporate, and small business tax*
22 *matters.*

23 “(3) *COORDINATION WITH FEMA.*—*The disaster*
24 *response team shall operate in coordination with the*

1 *Director of the Federal Emergency Management*
2 *Agency.*

3 “(4) *TOLL-FREE TELEPHONE NUMBER.—The*
4 *Commissioner of Internal Revenue shall establish and*
5 *maintain a toll-free telephone number for taxpayers*
6 *to use to receive assistance from the disaster response*
7 *team.*

8 “(5) *INTERNET WEBPAGE SITE.—The Commis-*
9 *sioner of Internal Revenue shall establish and main-*
10 *tain a site on the Internet webpage of the Internal*
11 *Revenue Service for information for taxpayers de-*
12 *scribed in paragraph (1)(A).’.*

13 *(b) FEMA.—The Director of the Federal Emergency*
14 *Management Agency shall work in coordination with the*
15 *disaster response team established under section 7803(e) of*
16 *the Internal Revenue Code of 1986 to provide timely assist-*
17 *ance to disaster victims described in such section,*
18 *including—*

19 *(1) informing the disaster response team regard-*
20 *ing any tax-related problems or issues arising in con-*
21 *nection with the disaster,*

22 *(2) providing the toll-free telephone number es-*
23 *tablished and maintained by the Internal Revenue*
24 *Service for the disaster victims in all materials pro-*
25 *vided to such victims, and*

1 (3) *providing the information described in sec-*
 2 *tion 7803(e)(5) of such Code on the Internet webpage*
 3 *of the Federal Emergency Management Agency or*
 4 *through a link on such webpage to the Internet*
 5 *webpage site of the Internal Revenue Service described*
 6 *in such section.*

7 (c) *EFFECTIVE DATE.*—*The amendment made by this*
 8 *section shall take effect on the date of the enactment of this*
 9 *Act.*

10 **SEC. 133. STUDY OF ACCELERATED TAX REFUNDS.**

11 (a) *STUDY.*—*The Secretary of the Treasury shall study*
 12 *the implementation of an accelerated refund program for*
 13 *taxpayers who—*

14 (1) *maintain the same filing characteristics from*
 15 *year to year, and*

16 (2) *elect the direct deposit option for any refund*
 17 *under the program.*

18 (b) *REPORT.*—*Not later than the date which is 1 year*
 19 *after the date of the enactment of this Act, the Secretary*
 20 *of the Treasury shall transmit a report of the study de-*
 21 *scribed in subsection (a), including recommendations, to the*
 22 *Committee on Finance of the Senate and the Committee on*
 23 *Ways and Means of the House of Representatives.*

1 **SEC. 134. STUDY ON CLARIFYING RECORDKEEPING RE-**
 2 **SPONSIBILITIES.**

3 (a) *STUDY.*—*The Secretary of the Treasury shall*
 4 *study—*

5 (1) *the scope of the records required to be main-*
 6 *tained by taxpayers under section 6001 of the Inter-*
 7 *nal Revenue Code of 1986,*

8 (2) *the utility of requiring taxpayers to main-*
 9 *tain all records indefinitely,*

10 (3) *such requirement given the necessity to up-*
 11 *grade technological storage for outdated records,*

12 (4) *the number of negotiated records retention*
 13 *agreements requested by taxpayers and the number*
 14 *entered into by the Internal Revenue Service, and*

15 (5) *proposals regarding taxpayer record-keeping.*

16 (b) *REPORT.*—*Not later than the date which is 1 year*
 17 *after the date of the enactment of this Act, the Secretary*
 18 *of the Treasury shall transmit a report of the study de-*
 19 *scribed in subsection (a), including recommendations, to the*
 20 *Committee on Finance of the Senate and the Committee on*
 21 *Ways and Means of the House of Representatives.*

22 **SEC. 135. STREAMLINE REPORTING PROCESS FOR NA-**
 23 **TIONAL TAXPAYER ADVOCATE.**

24 (a) *ONE ANNUAL REPORT.*—*Subparagraph (B) of sec-*
 25 *tion 7803(c)(2) (relating to functions of Office) is*
 26 *amended—*

(1) *by striking all matter preceding subclause (I) of clause (ii) and inserting the following:*

“(B) ANNUAL REPORT.—

“(i) IN GENERAL.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer of Advocate for the fiscal year beginning in such calendar year and the activities of such Office during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—”

(2) by striking “clause (ii)” in clause (iv) and inserting “clause (i)”, and

(3) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) ADDITIONAL REPORTS.—Section 7803(c)(2)(C) (relating to other responsibilities) is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “; and”, and by adding at the end the following new clause:

1 “(v) at the discretion of the National
 2 Taxpayer Advocate, report at any time to
 3 the Committee of Ways and Means of the
 4 House of Representatives and the Committee
 5 on Finance of the Senate on significant
 6 issues affecting taxpayer rights.”.

7 (c) *EFFECTIVE DATES.*—

8 (1) *ANNUAL REPORTS.*—The amendments made
 9 by subsection (a) shall apply to reports in calendar
 10 year 2005 and thereafter.

11 (2) *ADDITIONAL REPORTS.*—The amendments
 12 made by subsection (b) shall take effect on the date of
 13 the enactment of this Act.

14 **SEC. 136. IRS FREE FILE PROGRAM.**

15 (a) *IN GENERAL.*—The Commissioner of Internal Rev-
 16 enue shall require that a taxpayer must provide an affirma-
 17 tive consent before such taxpayer may be solicited with re-
 18 spect to any product or service by an entity participating
 19 in the Internal Revenue Service Free File program. Any
 20 request for such consent must be prominently displayed and
 21 clearly written, in large print, on any material relating
 22 to such program.

23 (b) *EFFECTIVE DATE.*—This section shall take effect
 24 with respect to returns filed after December 31, 2004.

1 **SEC. 137. MODIFICATION OF TIGTA REPORTING REQUIRE-**
 2 **MENTS.**

3 (a) *IN GENERAL.*—Paragraph (1) of section 7803(d)
 4 (relating to additional duties of the Treasury Inspector
 5 General for Tax Administration) is amended—

6 (1) by striking “ANNUAL” in the heading and in-
 7 serting “BIENNIAL”,

8 (2) by inserting “every 2 years (beginning in
 9 2004)” after “one of the semiannual reports” in the
 10 matter preceding subparagraph (A),

11 (3) by striking clause (ii) of subparagraph (A),

12 (4) by redesignating clauses (iii), (iv), and (v) of
 13 subparagraph (A) as clauses (ii), (iii), and (iv) of
 14 subparagraph (A), respectively,

15 (5) by striking subparagraph (B),

16 (6) by striking “and” at the end of subpara-
 17 graph (F),

18 (7) by redesignating subparagraphs (C), (D),
 19 (E), and (F) as subparagraphs (B), (C), (D), and
 20 (E), respectively, and

21 (8) by striking subparagraph (G) and inserting
 22 the following new subparagraphs:

23 “(F) the number of employee misconduct
 24 and taxpayer abuse allegations received by the
 25 Internal Revenue Service or the Inspector Gen-
 26 eral during the period from taxpayers, Internal

1 *Revenue Service employees, and other sources;*
 2 *and*

3 “(G) *with respect to allegations of serious*
 4 *employee misconduct—*

5 “(i) *a summary of the status of such*
 6 *allegations; and*

7 “(ii) *a summary of the disposition of*
 8 *such allegations, including the outcome of*
 9 *any Department of Justice action and any*
 10 *monies paid as a settlement of such allega-*
 11 *tions.”.*

12 (b) *CONFORMING AMENDMENTS.—Section 7803(d) is*
 13 *amended by striking paragraph (2) and by redesignating*
 14 *paragraph (3) as paragraph (2).*

15 (c) *EFFECTIVE DATE.—The amendments made by this*
 16 *section shall take effect on the date of the enactment of this*
 17 *Act.*

18 **SEC. 138. STUDY OF IRS ACCOUNTS RECEIVABLE.**

19 (a) *STUDY.—The Secretary of the Treasury shall con-*
 20 *duct a study of the provisions of the Internal Revenue Code*
 21 *of 1986, and the application of such provisions, regarding*
 22 *collection procedures to determine if impediments exist to*
 23 *the efficient and timely collection of tax debts. Such study*
 24 *shall include an examination of the accounts receivable in-*
 25 *ventory of the Internal Revenue Service.*

1 (b) *REPORT*.—Not later than 1 year after the date of
 2 the enactment of this Act, the Secretary of the Treasury
 3 shall submit a report to the Committee on Ways and Means
 4 of the House of Representatives and the Committee on Fi-
 5 nance of the Senate, including the findings of the study de-
 6 scribed in subsection (a) and such legislative or administra-
 7 tive recommendations as the Secretary deems appropriate
 8 to increase the efficient and timely collection of tax debts.

9 **SEC. 139. ELECTRONIC COMMERCE ADVISORY GROUP.**

10 (a) *IN GENERAL*.—Section 2001(b)(2) of the Internal
 11 Revenue Service Restructuring and Reform Act of 1998 is
 12 amended by inserting “, and at least 2 representatives from
 13 the consumer advocate community” after “industry”.

14 (b) *APPLICATION OF AMENDMENT*.—The initial ap-
 15 pointments in accordance with the amendment made by
 16 this section shall be made not later than the date which
 17 is 180 days after the date of the enactment of this Act.

18 **SEC. 140. STUDY ON MODIFICATIONS TO SCHEDULES L AND**

19 **M-1.**

20 (a) *IN GENERAL*.—Not later than 6 months after the
 21 date of the enactment of this Act, the Secretary of the Treas-
 22 ury shall report to the Committee on Finance of the Senate
 23 and the Committee on Ways and Means of the House of
 24 Representatives on proposals to modify tax schedules L and

1 *M-1 of Form 1120 to require the disclosure of additional*
 2 *information, such as the items described in subsection (b).*

3 *(b) ITEMS OF DISCLOSURE.—The items described in*
 4 *this subsection is as follows:*

5 *(1) The parent company names and identifica-*
 6 *tion numbers for both tax and book purposes.*

7 *(2) An asset reconciliation of consolidated book*
 8 *assets on the public financial disclosures with the con-*
 9 *solidated tax return.*

10 *(3) Worldwide net income from public financial*
 11 *disclosures.*

12 *(4) The components of tax expense presently re-*
 13 *corded in financial statement tax footnotes.*

14 *(5) The reconciliation of the book income of enti-*
 15 *ties included in the consolidated financial statement*
 16 *with book income included in the consolidated tax re-*
 17 *turn.*

18 *(6) The adjustment for book income from domes-*
 19 *tic and foreign entities excluded from financial re-*
 20 *porting but included for tax reconciliation.*

21 *(7) The book income of United States entities in-*
 22 *cluded in the United States consolidated return.*

23 *(8) Taxable income due to actual or deemed divi-*
 24 *dends from foreign subsidiaries.*

1 (9) *A reconciliation which should reflect pretax*
 2 *book income of United States consolidated tax group*
 3 *plus taxable deemed or actual foreign repatriations.*

4 (10) *The differences in the reporting of income*
 5 *and expense between book and tax reporting, includ-*
 6 *ing specific reporting on pension expense, stock op-*
 7 *tions, and the amortization of goodwill.*

8 (11) *Other reconciliation items in a consistent*
 9 *manner among all entities.*

10 (c) *PUBLIC AVAILABILITY OF SPECIFIED INFORMA-*
 11 *TION.—Not later than 1 year after the date of the enactment*
 12 *of this Act, the Securities and Exchange Commission and*
 13 *the Commissioner of Internal Revenue shall each report to*
 14 *the Committee on Finance of the Senate and the Committee*
 15 *on Ways and Means of the House of Representatives on pro-*
 16 *posals to expand the public availability and clarity of in-*
 17 *formation relating to book and tax differences and Federal*
 18 *tax liability with respect to corporations.*

19 **SEC. 141. REGULATION OF FEDERAL INCOME TAX RETURN**
 20 **PREPARERS, REFUND ANTICIPATION LOAN**
 21 **PROVIDERS, AND PAYROLL AGENTS.**

22 (a) *IN GENERAL.—Chapter 77 (relating to miscella-*
 23 *neous provisions), as amended by this Act, is amended by*
 24 *adding at the end the following new section:*

1 **“SEC. 7530. FEDERAL INCOME TAX RETURN PREPARERS, RE-**
 2 **FUND ANTICIPATION LOAN PROVIDERS, AND**
 3 **PAYROLL AGENTS.**

4 “(a) *REGISTRATION.*—

5 “(1) *IN GENERAL.*—*The Secretary shall prescribe*
 6 *such regulations as may be necessary—*

7 “(A) *to require the registration of Federal*
 8 *income tax return preparers, refund anticipation*
 9 *loan providers, and payroll agents with the Sec-*
 10 *retary or the designee of the Secretary,*

11 “(B) *to prohibit the payment of a refund of*
 12 *tax to a Federal income tax return preparer or*
 13 *refund anticipation loan provider that is the re-*
 14 *sult of a tax return which is prepared by such*
 15 *preparer or provider which does not include the*
 16 *preparer’s or provider’s registration number, and*

17 “(C) *to require the posting of a reasonable*
 18 *bond by each registered payroll agent.*

19 “(2) *NO DISCIPLINARY ACTION.*—*The regulations*
 20 *under paragraph (1) shall require that an applicant*
 21 *for registration must not have demonstrated any con-*
 22 *duct that would warrant disciplinary action under*
 23 *part 10 of title 31, Code of Federal Regulations.*

24 “(3) *BURDEN OF REGISTRATION.*—*In promul-*
 25 *gating the regulations under paragraph (1), the Sec-*

1 *retary shall minimize the burden and cost on the reg-*
 2 *istrant.*

3 “(b) *EXAMINATION.*—*In promulgating the regulations*
 4 *under subsection (a)—*

5 “(1) *IN GENERAL.*—*The Secretary shall develop*
 6 *a series of examinations designed to test the technical*
 7 *knowledge and competency of each applicant for reg-*
 8 *istration to prepare Federal tax returns, including an*
 9 *examination testing knowledge of individual income*
 10 *tax return preparation, including the earned income*
 11 *tax credit under section 32.*

12 “(2) *INITIAL EXAMINATION.*—*The Secretary shall*
 13 *require that each applicant for registration pass an*
 14 *initial examination testing the applicant’s technical*
 15 *knowledge and competency to prepare individual and*
 16 *business Federal income tax returns.*

17 “(c) *RULES OF CONDUCT.*—*All registrants shall be*
 18 *subject to rules of conduct that are consistent with the rules*
 19 *that govern any federally authorized tax practitioner with-*
 20 *in the meaning of section 7525(a)(3)(A).*

21 “(d) *DISCLOSURE OF INFORMATION.*—*The Secretary*
 22 *shall provide guidance on the manner and timing of disclo-*
 23 *sure to taxpayers of information relating to fees and inter-*
 24 *est rates imposed in connection with loans made to tax-*
 25 *payors by refund anticipation loan providers.*

1 “(e) *ANNUAL RENEWAL OF REGISTRATION.*—

2 “(1) *IN GENERAL.*—*The regulations under sub-*
 3 *section (a) shall require an annual renewal of reg-*
 4 *istration and shall set forth the manner in which a*
 5 *registered Federal income tax return preparer, refund*
 6 *anticipation loan provider, or payroll agent must*
 7 *renew such registration.*

8 “(2) *ANNUAL EXAMINATIONS.*—*As part of the an-*
 9 *nuual registration, such regulations shall require that*
 10 *each registrant pass an annual refresher examination*
 11 *(including tax law updates).*

12 “(f) *FEES.*—

13 “(1) *IN GENERAL.*—*The Secretary may require*
 14 *the payment of reasonable fees for registration and for*
 15 *renewal of registration under the regulations promul-*
 16 *gated under subsection (a).*

17 “(2) *PURPOSE OF FEES.*—*Any fees described in*
 18 *paragraph (1) shall be available without fiscal year*
 19 *limitation to the Secretary for the purpose of reim-*
 20 *bursement of the costs of administering the require-*
 21 *ments of the regulations.*

22 “(g) *FEDERAL INCOME TAX RETURN PREPARER.*—*For*
 23 *purposes of this section—*

24 “(1) *IN GENERAL.*—*The term ‘Federal income*
 25 *tax return preparer’ means any individual who is an*

1 *income tax return preparer (within the meaning of*
 2 *section 7701(a)(36)) who prepares not less than 5 re-*
 3 *turns of tax imposed by subtitle A or claims for re-*
 4 *funds of tax imposed by subtitle A per taxable year.*

5 “(2) *EXCEPTION.*—Such term shall not include a
 6 *federally authorized tax practitioner (as defined in*
 7 *section 7525(a)(3)(A).*

8 “(h) *REFUND ANTICIPATION LOAN PROVIDER.*—For
 9 *purposes of this section, the term ‘refund anticipation loan*
 10 *provider’ means a person who makes a loan of money or*
 11 *of any other thing of value to a taxpayer in connection with*
 12 *the taxpayer’s anticipated receipt of a Federal tax refund.”.*

13 (b) *PROHIBITION.*—

14 (1) *IN GENERAL.*—Section 6695 (relating to
 15 *other assessable penalties with respect to the prepara-*
 16 *tion of income tax returns for other persons) is*
 17 *amended by adding at the end the following new sub-*
 18 *section:*

19 “(h) *ACTIONS ON A TAXPAYER’S BEHALF BY A NON-*
 20 *REGISTERED PERSON.*—Any person not registered pursu-
 21 *ant to the regulations promulgated by the Secretary under*
 22 *section 7530 who—*

23 “(1) *prepares a tax return for another taxpayer,*
 24 *or*

1 “(2) provides a loan of money or of any other
 2 thing of value to a taxpayer in connection with the
 3 taxpayer’s anticipated receipt of a Federal tax re-
 4 fund,
 5 shall be subject to a \$500 penalty for each incident of non-
 6 compliance.”.

7 (2) *USE OF PENALTIES.*—There is authorized to
 8 be appropriated and is appropriated to the Secretary
 9 of the Treasury for each fiscal year for the adminis-
 10 tration of the requirements of the regulations promul-
 11 gated under section 7530 of the Internal Revenue
 12 Code of 1986 an amount equal to the penalties im-
 13 posed under section 6695(h) of such Code for the pre-
 14 ceding fiscal year.

15 (c) *COORDINATION WITH SECTION 6060(a).*—The Sec-
 16 retary of the Treasury shall coordinate the registration re-
 17 quired under the regulations promulgated under section
 18 7530 of the Internal Revenue Code of 1986 with the return
 19 requirements of section 6060 of such Code.

20 (d) *PUBLIC AWARENESS CAMPAIGN.*—

21 (1) *IN GENERAL.*—The Secretary of the Treasury
 22 shall conduct a public information and consumer
 23 education campaign, utilizing paid advertising, to in-
 24 form the public of the requirements that Federal in-
 25 come tax return preparers (as defined in section

1 7530(g) of the Internal Revenue Code of 1986) must
 2 sign the return prepared for a fee and display notice
 3 of their registration under the regulations promul-
 4 gated under section 7530 of such Code.

5 (2) *PUBLIC LIST.*—The Secretary of the Treasury
 6 shall maintain a public list (in print and electronic
 7 media, including Internet-based) of Federal income
 8 tax return preparers (as so defined) who are so reg-
 9 istered and whose registration has been revoked.

10 (3) *NOTIFICATION.*—The Secretary of the Treas-
 11 ury shall notify any taxpayer if such taxpayer’s re-
 12 turn was prepared by such an unregistered Federal
 13 income tax return preparer .

14 (e) *ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE*
 15 *ACTIVITIES.*—The Secretary of the Treasury may use any
 16 specifically appropriated funds for earned income tax credit
 17 compliance to improve and expand enforcement of Federal
 18 income tax preparers under the regulations promulgated
 19 under section 7530 of the Internal Revenue Code of 1986.

20 (f) *CLERICAL AMENDMENT.*—The table of sections for
 21 chapter 77, as amended by this Act, is amended by adding
 22 at the end the following new item:

“Sec. 7530. Federal income tax return preparers and refund antici-
 pation loan providers.”.

1 (g) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the date of the enactment of this*
 3 *Act.*

4 **SEC. 142. JOINT TASK FORCE ON OFFERS-IN-COMPROMISE.**

5 (a) *IN GENERAL.*—*The Secretary of the Treasury shall*
 6 *establish a joint task force—*

7 (1) *to review the Internal Revenue Service’s de-*
 8 *terminations with respect to offers which raise equi-*
 9 *table, public policy, or economic hardship grounds for*
 10 *compromise of a tax liability under section 7122 of*
 11 *the Internal Revenue Code of 1986,*

12 (2) *to review the extent to which the Internal*
 13 *Revenue Service has used its authority to resolve long-*
 14 *standing cases by forgoing penalties and interest*
 15 *which have accumulated as a result of delay in deter-*
 16 *mining the taxpayer’s liability,*

17 (3) *to provide recommendations as to whether the*
 18 *Internal Revenue Service’s evaluation of offers-in-*
 19 *compromise should include—*

20 (A) *the taxpayer’s compliance history,*

21 (B) *errors by the Internal Revenue Service*
 22 *with respect to the underlying tax,*

23 (C) *wrongful acts by a third party which*
 24 *gave rise to the liability, and*

(b) MEMBERS OF JOINT TASK FORCE.—The membership of the joint task force under subsection (a) shall consist of 1 representative each from the Department of the Treasury, the Internal Revenue Service Oversight Board, the Office of the Chief Counsel for the Internal Revenue Service, the Office of the Taxpayer Advocate, the Office of Appeals, and the division of the Internal Revenue Service charged with operating the offer-in-compromise program.

(1) IN GENERAL.—Clause (i) of section 7803(c)(2)(B) (relating to annual reports), as amended by this Act, is amended by striking “and” at the end of subclause (X), by redesignating subclause (XI) as subclause (XII), and by inserting after subclause (X) the following new subclause:

“(XI) include a list of the factors
taxpayers have raised to support their
claims for offers-in-compromise relief,
the number of such offers submitted,

accepted, and rejected, the number of such offers appealed, the period during which review of such offers have remained pending, and the efforts the Internal Revenue Service has made to correctly identify such offers, including the training of employees in identifying and evaluating such offers.”.

(2) *EFFECTIVE DATE.*—The amendment made by paragraph (1) shall apply to reports in calendar year 2005 and thereafter.

Subtitle C—Other Provisions

SEC. 151. PENALTY FOR FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) *IN GENERAL.*—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

“(5) *FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.*—

“(A) *PENALTY AUTHORIZED.*—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

“(B) *AMOUNT OF PENALTY.*—

“(i) *IN GENERAL.*—Except as provided in subparagraph (C), the amount of any

1 *civil penalty imposed under subparagraph*
 2 *(A) shall not exceed \$5,000.*

3 “(ii) *REASONABLE CAUSE EXCEP-*
 4 *TION.—No penalty shall be imposed under*
 5 *subparagraph (A) with respect to any viola-*
 6 *tion if—*

7 “(I) *such violation was due to*
 8 *reasonable cause, and*

9 “(II) *the amount of the trans-*
 10 *action or the balance in the account at*
 11 *the time of the transaction was prop-*
 12 *erly reported.*

13 “(C) *WILLFUL VIOLATIONS.—In the case of*
 14 *any person willfully violating, or willfully caus-*
 15 *ing any violation of, any provision of section*
 16 *5314—*

17 “(i) *the maximum penalty under sub-*
 18 *paragraph (B)(i) shall be increased to the*
 19 *greater of—*

20 “(I) *\$25,000, or*

21 “(II) *the amount (not exceeding*
 22 *\$100,000) determined under subpara-*
 23 *graph (D), and*

24 “(ii) *subparagraph (B)(i) shall not*
 25 *apply.*

1 “(D) *AMOUNT.*—*The amount determined*
 2 *under this subparagraph is—*

3 “(i) *in the case of a violation involving*
 4 *a transaction, the amount of the trans-*
 5 *action, or*

6 “(ii) *in the case of a violation involv-*
 7 *ing a failure to report the existence of an*
 8 *account or any identifying information re-*
 9 *quired to be provided with respect to an ac-*
 10 *count, the balance in the account at the*
 11 *time of the violation.”.*

12 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 13 *section shall apply to violations occurring after the date of*
 14 *the enactment of this Act.*

15 **SEC. 152. REPEAL OF APPLICATION OF BELOW-MARKET**
 16 **LOAN RULES TO AMOUNTS PAID TO CERTAIN**
 17 **CONTINUING CARE FACILITIES.**

18 (a) *IN GENERAL.*—*Section 7872(c)(1) (relating to*
 19 *below-market loans to which section applies) is amended—*

20 (1) *by striking subparagraph (F), and*

21 (2) *by striking “(C), or (F)” in subparagraph*
 22 *(E) and inserting “or (C)”.*

23 (b) *FULL EXCEPTION.*—*Section 7872(g) (relating to*
 24 *exception for certain loans to qualified continuing care fa-*
 25 *cilities) is amended—*

1 (1) by striking “made by a lender to a qualified
 2 continuing care facility pursuant to a continuing
 3 care contract” in paragraph (1) and inserting “owed
 4 by a facility which on the last day of such year is
 5 a qualified continuing care facility, if such loan was
 6 made pursuant to a continuing care contract and”,

7 (2) by striking “increased personal care services
 8 or” in paragraph (3)(C),

9 (3) by adding at the end of paragraph (3) the
 10 following new flush sentence:

11 “The Secretary shall issue guidance which limits such
 12 term to contracts which provide to an individual or
 13 individual’s spouse only facilities, care, and services
 14 described in this paragraph which are customarily of-
 15 fered by continuing care facilities.”,

16 (4) by inserting “independent living unit” after
 17 “all of the” in paragraph (4)(A)(ii),

18 (5) by striking paragraphs (2) and (5),

19 (6) by redesignating paragraphs (3) and (4) as
 20 paragraphs (2) and (3), respectively, and

21 (7) by striking “CERTAIN” in the heading there-
 22 of.

23 (c) *EFFECTIVE DATE.*—The amendments made by this
 24 section shall apply to calendar years beginning after 2004.

1 **SEC. 153. PUBLIC SUPPORT BY INDIAN TRIBAL GOVERN-**
 2 **MENTS.**

3 (a) *IN GENERAL.*—Section 7871(a) (relating to Indian
 4 tribal governments treated as States for certain purposes)
 5 is amended by striking “and” at the end of subparagraph
 6 (C) of paragraph (6), by striking the period at the end of
 7 subparagraph (B) of paragraph (7) and inserting “; and”,
 8 and by adding at the end the following new paragraph:

9 “(8) for purposes of—

10 “(A) determining support of an organiza-
 11 tion described in section 170(b)(1)(A)(vi), and

12 “(B) determining whether an organization
 13 is described in paragraph (1) or (2) of section
 14 509(a) for purposes of section 509(a)(3).”.

15 (b) *EFFECTIVE DATE.*—The amendments made by this
 16 section shall apply with respect to—

17 (1) support received before, on, or after the date
 18 of the enactment of this Act, and

19 (2) the determination of the status of any orga-
 20 nization with respect to any taxable year beginning
 21 after such date of enactment.

1 **SEC. 154. PAYROLL AGENTS SUBJECT TO PENALTY FOR**
 2 **FAILURE TO COLLECT AND PAY OVER TAX, OR**
 3 **ATTEMPT TO EVADE OR DEFEAT TAX.**

4 (a) *IN GENERAL.*—Section 6672(a) is amended by in-
 5 serting “, including any payroll agent,” after “Any per-
 6 son”.

7 (b) *PENALTY NOT SUBJECT TO DISCHARGE IN BANK-*
 8 *RUPTCY.*—Section 6672(a) is amended by adding at the end
 9 the following new sentence: “Notwithstanding any other
 10 provision of law, no penalty imposed under this section
 11 may be discharged in bankruptcy.”.

12 (c) *CONSTRUCTION.*—The amendment made by sub-
 13 section (a) shall not be construed to create any inference
 14 with respect to the interpretation of section 6672 of the In-
 15 ternal Revenue Code of 1986 as such section was in effect
 16 on the day before the date of the enactment of this Act.

17 (d) *EFFECTIVE DATE.*—The amendments made by this
 18 section shall apply to failures occurring after the date of
 19 the enactment of this Act.

20 **TITLE II—REFORM OF PENALTY**
 21 **AND INTEREST**

22 **SEC. 201. INDIVIDUAL ESTIMATED TAX.**

23 (a) *INCREASE IN EXCEPTION FOR INDIVIDUALS OWING*
 24 *SMALL AMOUNT OF TAX.*—Section 6654(e)(1) (relating to
 25 exception where tax is small amount) is amended by strik-
 26 ing “\$1,000” and inserting “\$2,000”.

1 (b) *COMPUTATION OF ADDITION TO TAX.*—Subsections
 2 (a) and (b) of section 6654 (relating to failure by individual
 3 to pay estimated taxes) are amended to read as follows:

4 “(a) *ADDITION TO THE TAX.*—

5 “(1) *IN GENERAL.*—Except as otherwise provided
 6 in this section, in the case of any underpayment of
 7 estimated tax by an individual for a taxable year,
 8 there shall be added to the tax under chapters 1 and
 9 2 for the taxable year the amount determined under
 10 paragraph (2) for each day of underpayment.

11 “(2) *AMOUNT.*—The amount of the addition to
 12 tax for any day shall be the product of the under-
 13 payment rate established under subsection (b)(2) mul-
 14 tiplied by the amount of the underpayment.

15 “(b) *AMOUNT OF UNDERPAYMENT; UNDERPAYMENT*
 16 *RATE.*—For purposes of subsection (a)—

17 “(1) *AMOUNT.*—The amount of the under-
 18 payment on any day shall be the excess of—

19 “(A) the sum of the required installments
 20 for the taxable year the due dates for which are
 21 on or before such day, over

22 “(B) the sum of the amounts (if any) of es-
 23 timated tax payments made on or before such
 24 day on such required installments.

1 “(2) *DETERMINATION OF UNDERPAYMENT*
2 *RATE.*—

3 “(A) *IN GENERAL.*—*The underpayment rate*
4 *with respect to any day in an installment under-*
5 *payment period shall be the underpayment rate*
6 *established under section 6621 for the first day*
7 *of the calendar quarter in which such install-*
8 *ment underpayment period begins.*

9 “(B) *INSTALLMENT UNDERPAYMENT PE-*
10 *RIOD.*—*For purposes of subparagraph (A), the*
11 *term ‘installment underpayment period’ means*
12 *the period beginning on the day after the due*
13 *date for a required installment and ending on*
14 *the due date for the subsequent required install-*
15 *ment (or in the case of the 4th required install-*
16 *ment, the 15th day of the 4th month following*
17 *the close of a taxable year).*

18 “(C) *DAILY RATE.*—*The rate determined*
19 *under subparagraph (A) shall be applied on a*
20 *daily basis and shall be based on the assumption*
21 *of 365 days in a calendar year.*

22 “(3) *TERMINATION OF ESTIMATED TAX UNDER-*
23 *PAYMENT.*—*No day after the end of the installment*
24 *underpayment period for the 4th required installment*
25 *specified in paragraph (2)(B) for a taxable year shall*

1 *be treated as a day of underpayment with respect to*
 2 *such taxable year.”.*

3 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 4 *section shall apply to estimated tax payments made for tax-*
 5 *able years beginning after December 31, 2004.*

6 **SEC. 202. CORPORATE ESTIMATED TAX.**

7 (a) *INCREASE IN SMALL TAX AMOUNT EXCEPTION.*—
 8 *Section 6655(f) (relating to exception where tax is small*
 9 *amount) is amended by striking “\$500” and inserting*
 10 *“\$1,000”.*

11 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 12 *section shall apply to taxable years beginning after Decem-*
 13 *ber 31, 2004.*

14 **SEC. 203. INCREASE IN LARGE CORPORATION THRESHOLD**
 15 **FOR ESTIMATED TAX PAYMENTS.**

16 (a) *IN GENERAL.*—*Section 6655(g)(2) (defining large*
 17 *corporation) is amended—*

18 (1) *by striking “\$1,000,000” in subparagraph*
 19 *(A) and inserting “the applicable amount”,*

20 (2) *by striking “the \$1,000,000 amount specified*
 21 *in subparagraph (A)” in subparagraph (B)(ii) and*
 22 *inserting “the applicable amount”,*

23 (3) *by redesignating subparagraph (B) as sub-*
 24 *paragraph (C), and*

1 (4) *by inserting after subparagraph (A) the fol-*
 2 *lowing new subparagraph:*

3 “(B) *APPLICABLE AMOUNT.*—*For purposes*
 4 *of this paragraph, the applicable amount is*
 5 *\$1,000,000 increased (but not above \$1,500,000)*
 6 *by \$50,000 for each taxable year beginning after*
 7 *2004.”.*

8 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 9 *section shall apply to taxable years beginning after Decem-*
 10 *ber 31, 2004.*

11 **SEC. 204. ABATEMENT OF INTEREST.**

12 (a) *ABATEMENT OF INTEREST FOR PERIODS ATTRIB-*
 13 *UTABLE TO ANY UNREASONABLE IRS ERROR OR DELAY.*—
 14 *Section 6404(e)(1) is amended—*

15 (1) *by striking “in performing a ministerial or*
 16 *managerial act” in subparagraphs (A) and (B),*

17 (2) *by striking “deficiency” in subparagraph (A)*
 18 *and inserting “underpayment of any tax, addition to*
 19 *tax, or penalty imposed by this title”, and*

20 (3) *by striking “tax described in section*
 21 *6212(a)” in subparagraph (B) and inserting “tax,*
 22 *addition to tax, or penalty imposed by this title”.*

23 (b) *ABATEMENT OF INTEREST TO EXTENT INTEREST*
 24 *IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN*

1 *STATEMENTS OF THE IRS.—Subsection (f) of section 6404*
 2 *is amended—*

3 *(1) in the subsection heading, by striking “PEN-*
 4 *ALTY OR ADDITION” and inserting “INTEREST, PEN-*
 5 *ALTY, OR ADDITION”; and*

6 *(2) in paragraph (1) and in subparagraph (B)*
 7 *of paragraph (2), by striking “penalty or addition”*
 8 *and inserting “interest, penalty, or addition”.*

9 *(c) EFFECTIVE DATE.—The amendments made by this*
 10 *section shall apply with respect to interest accruing on or*
 11 *after the date of the enactment of this Act.*

12 **SEC. 205. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
 13 **TEREST ON POTENTIAL UNDERPAYMENTS.**

14 *(a) IN GENERAL.—Subchapter A of chapter 67 (relat-*
 15 *ing to interest on underpayments) is amended by adding*
 16 *at the end the following new section:*

17 **“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
 18 **TEREST ON POTENTIAL UNDERPAYMENTS,**
 19 **ETC.**

20 *“(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN*
 21 *AS PAYMENT OF TAX.—A taxpayer may make a cash de-*
 22 *posit with the Secretary which may be used by the Sec-*
 23 *retary to pay any tax imposed under subtitle A or B or*
 24 *chapter 41, 42, 43, or 44 which has not been assessed at*

1 *the time of the deposit. Such a deposit shall be made in*
 2 *such manner as the Secretary shall prescribe.*

3 “(b) *NO INTEREST IMPOSED.*—*To the extent that such*
 4 *deposit is used by the Secretary to pay tax, for purposes*
 5 *of section 6601 (relating to interest on underpayments), the*
 6 *tax shall be treated as paid when the deposit is made.*

7 “(c) *RETURN OF DEPOSIT.*—*Except in a case where*
 8 *the Secretary determines that collection of tax is in jeop-*
 9 *ardy, the Secretary shall return to the taxpayer any*
 10 *amount of the deposit (to the extent not used for a payment*
 11 *of tax) which the taxpayer requests in writing.*

12 “(d) *PAYMENT OF INTEREST.*—

13 “(1) *IN GENERAL.*—*For purposes of section 6611*
 14 *(relating to interest on overpayments), a deposit*
 15 *which is returned to a taxpayer shall be treated as a*
 16 *payment of tax for any period to the extent (and only*
 17 *to the extent) attributable to a disputable tax for such*
 18 *period. Under regulations prescribed by the Secretary,*
 19 *rules similar to the rules of section 6611(b)(2) shall*
 20 *apply.*

21 “(2) *DISPUTABLE TAX.*—

22 “(A) *IN GENERAL.*—*For purposes of this*
 23 *section, the term ‘disputable tax’ means the*
 24 *amount of tax specified at the time of the deposit*
 25 *as the taxpayer’s reasonable estimate of the max-*

1 *imum amount of any tax attributable to disput-*
 2 *able items.*

3 “(B) *SAFE HARBOR BASED ON 30-DAY LET-*
 4 *TER.*—*In the case of a taxpayer who has been*
 5 *issued a 30-day letter, the maximum amount of*
 6 *tax under subparagraph (A) shall not be less*
 7 *than the amount of the proposed deficiency speci-*
 8 *fied in such letter.*

9 “(3) *OTHER DEFINITIONS.*—*For purposes of*
 10 *paragraph (2)—*

11 “(A) *DISPUTABLE ITEM.*—*The term ‘disput-*
 12 *able item’ means any item of income, gain, loss,*
 13 *deduction, or credit if the taxpayer—*

14 “(i) *has a reasonable basis for its*
 15 *treatment of such item, and*

16 “(ii) *reasonably believes that the Sec-*
 17 *retary also has a reasonable basis for dis-*
 18 *allowing the taxpayer’s treatment of such*
 19 *item.*

20 “(B) *30-DAY LETTER.*—*The term ‘30-day*
 21 *letter’ means the first letter of proposed defi-*
 22 *ciency which allows the taxpayer an opportunity*
 23 *for administrative review in the Internal Rev-*
 24 *enue Service Office of Appeals.*

1 “(4) *RATE OF INTEREST.*—*The rate of interest*
 2 *allowable under this subsection shall be the Federal*
 3 *short-term rate determined under section 6621(b),*
 4 *compounded daily.*

5 “(e) *USE OF DEPOSITS.*—

6 “(1) *PAYMENT OF TAX.*—*Except as otherwise*
 7 *provided by the taxpayer, deposits shall be treated as*
 8 *used for the payment of tax in the order deposited.*

9 “(2) *RETURNS OF DEPOSITS.*—*Deposits shall be*
 10 *treated as returned to the taxpayer on a last-in, first-*
 11 *out basis.”.*

12 “(b) *CLERICAL AMENDMENT.*—*The table of sections for*
 13 *subchapter A of chapter 67 is amended by adding at the*
 14 *end the following new item:*

“Sec. 6603. *Deposits made to suspend running of interest on poten-*
tial underpayments, etc.”.

15 “(c) *EFFECTIVE DATE.*—

16 “(1) *IN GENERAL.*—*The amendments made by*
 17 *this section shall apply to deposits made after the*
 18 *date which is 1 year after the date of the enactment*
 19 *of this Act.*

20 “(2) *COORDINATION WITH DEPOSITS MADE UNDER*
 21 *REVENUE PROCEDURE 84-58.*—*In the case of an*
 22 *amount held by the Secretary of the Treasury or the*
 23 *Secretary’s delegate on the date which is 1 year after*
 24 *the date of the enactment of this Act as a deposit in*

10 (a) *IN GENERAL.*—Section 6404(g) (relating to sus-
11 pension of interest and certain penalties where Secretary
12 fails to contact taxpayer) is amended by striking “1-year
13 period (18-month period in the case of taxable years begin-
14 ning before January 1, 2004)” both places it appears and
15 inserting “18-month period”.

(b) *EXCEPTION FOR GROSS MISSTATEMENT.*—Section 6404(g)(2) (relating to exceptions) is amended by striking “or” at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

21 “(D) any interest, penalty, addition to tax,
22 or additional amount with respect to any gross
23 misstatement; or”.

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1 amended by subsection (b), is amended by striking “or” at
 2 the end of subparagraph (D), by redesignating subpara-
 3 graph (E) as subparagraph (F), and by inserting after sub-
 4 paragraph (D) the following new subparagraph:

5 “(E) any interest, penalty, addition to tax,
 6 or additional amount with respect to any report-
 7 able transaction or listed transaction (as defined
 8 in 6707A(c)); or”.

9 (d) *EFFECTIVE DATES.*—

10 (1) *IN GENERAL.*—Except as provided in para-
 11 graph (2), the amendments made by this section shall
 12 apply to taxable years beginning after December 31,
 13 2003.

14 (2) *EXCEPTION FOR REPORTABLE OR LISTED*
 15 *TRANSACTIONS.*—The amendments made by sub-
 16 section (c) shall apply with respect to interest accru-
 17 ing after May 5, 2004.

18 **SEC. 207. CLARIFICATION OF APPLICATION OF FEDERAL**
 19 **TAX DEPOSIT PENALTY.**

20 Nothing in section 6656 of the Internal Revenue Code
 21 of 1986 shall be construed to permit the percentage specified
 22 in subsection (b)(1)(A)(iii) thereof to apply other than in
 23 a case where the failure is for more than 15 days.

1 **SEC. 208. FRIVOLOUS TAX RETURNS AND SUBMISSIONS.**

2 (a) *CIVIL PENALTIES.*—Section 6702 is amended to
3 read as follows:

4 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

5 “(a) *CIVIL PENALTY FOR FRIVOLOUS TAX RE-*
6 *URNS.*—A person shall pay a penalty of \$5,000 if—

7 “(1) *such person files what purports to be a re-*
8 *turn of a tax imposed by this title but which—*

9 “(A) *does not contain information on which*
10 *the substantial correctness of the self-assessment*
11 *may be judged, or*

12 “(B) *contains information that on its face*
13 *indicates that the self-assessment is substantially*
14 *incorrect; and*

15 “(2) *the conduct referred to in paragraph (1)—*

16 “(A) *is based on a position which the Sec-*
17 *retary has identified as frivolous under sub-*
18 *section (c), or*

19 “(B) *reflects a desire to delay or impede the*
20 *administration of Federal tax laws.*

21 “(b) *CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUB-*
22 *MISSIONS.*—

23 “(1) *IMPOSITION OF PENALTY.*—*Except as pro-*
24 *vided in paragraph (3), any person who submits a*
25 *specified frivolous submission shall pay a penalty of*
26 *\$5,000.*

1 “(2) *SPECIFIED FRIVOLOUS SUBMISSION.*—*For*
2 *purposes of this section—*

3 “(A) *SPECIFIED FRIVOLOUS SUBMISSION.*—
4 *The term ‘specified frivolous submission’ means*
5 *a specified submission if any portion of such*
6 *submission—*

7 “(i) *is based on a position which the*
8 *Secretary has identified as frivolous under*
9 *subsection (c), or*

10 “(ii) *reflects a desire to delay or im-*
11 *pede the administration of Federal tax*
12 *laws.*

13 “(B) *SPECIFIED SUBMISSION.*—*The term*
14 *‘specified submission’ means—*

15 “(i) *a request for a hearing under—*

16 “(I) *section 6320 (relating to no-*
17 *tice and opportunity for hearing upon*
18 *filing of notice of lien), or*

19 “(II) *section 6330 (relating to no-*
20 *tice and opportunity for hearing before*
21 *levy), and*

22 “(ii) *an application under—*

23 “(I) *section 6159 (relating to*
24 *agreements for payment of tax liability*
25 *in installments),*

1 “(II) section 7122 (relating to
2 compromises), or

3 “(III) section 7811 (relating to
4 taxpayer assistance orders).

5 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
6 SION.—If the Secretary provides a person with notice
7 that a submission is a specified frivolous submission
8 and such person withdraws such submission within
9 30 days after such notice, the penalty imposed under
10 paragraph (1) shall not apply with respect to such
11 submission.

12 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
13 retary shall prescribe (and periodically revise) a list of posi-
14 tions which the Secretary has identified as being frivolous
15 for purposes of this subsection. The Secretary shall not in-
16 clude in such list any position that the Secretary deter-
17 mines meets the requirement of section
18 6662(d)(2)(B)(i)(II).

19 “(d) REDUCTION OF PENALTY.—The Secretary may
20 reduce the amount of any penalty imposed under this sec-
21 tion if the Secretary determines that such reduction would
22 promote compliance with and administration of the Federal
23 tax laws.

1 “(e) *PENALTIES IN ADDITION TO OTHER PEN-*
 2 *ALTIES.*—*The penalties imposed by this section shall be in*
 3 *addition to any other penalty provided by law.*”.

4 (b) *TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-*
 5 *INGS BEFORE LEVY.*—

6 (1) *FRIVOLOUS REQUESTS DISREGARDED.*—*Sec-*
 7 *tion 6330 (relating to notice and opportunity for*
 8 *hearing before levy) is amended by adding at the end*
 9 *the following new subsection:*

10 “(g) *FRIVOLOUS REQUESTS FOR HEARING, ETC.*—*Not-*
 11 *withstanding any other provision of this section, if the Sec-*
 12 *retary determines that any portion of a request for a hear-*
 13 *ing under this section or section 6320 meets the requirement*
 14 *of clause (i) or (ii) of section 6702(b)(2)(A), then the Sec-*
 15 *retary may treat such portion as if it were never submitted*
 16 *and such portion shall not be subject to any further admin-*
 17 *istrative or judicial review.*”.

18 (2) *PRECLUSION FROM RAISING FRIVOLOUS*
 19 *ISSUES AT HEARING.*—*Section 6330(c)(4) is*
 20 *amended—*

21 (A) *by striking “(A)” and inserting*

22 “(A)(i)”;

23 (B) *by striking “(B)” and inserting “(ii)”;*

24 (C) *by striking the period at the end of the*
 25 *first sentence and inserting “; or”; and*

1 (D) by inserting after subparagraph (A)(ii)
 2 (as so redesignated) the following:

3 “(B) the issue meets the requirement of
 4 clause (i) or (ii) of section 6702(b)(2)(A).”.

5 (3) STATEMENT OF GROUNDS.—Section
 6 6330(b)(1) is amended by striking “under subsection
 7 (a)(3)(B)” and inserting “in writing under subsection
 8 (a)(3)(B) and states the grounds for the requested
 9 hearing”.

10 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-
 11 INGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is
 12 amended—

13 (1) in subsection (b)(1), by striking “under sub-
 14 section (a)(3)(B)” and inserting “in writing under
 15 subsection (a)(3)(B) and states the grounds for the re-
 16 quested hearing”, and

17 (2) in subsection (c), by striking “and (e)” and
 18 inserting “(e), and (g)”.

19 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
 20 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
 21 MENTS.—Section 7122 is amended by adding at the end
 22 the following new subsection:

23 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
 24 standing any other provision of this section, if the Secretary
 25 determines that any portion of an application for an offer-

1 *in-compromise or installment agreement submitted under*
 2 *this section or section 6159 meets the requirement of clause*
 3 *(i) or (ii) of section 6702(b)(2)(A), then the Secretary may*
 4 *treat such portion as if it were never submitted and such*
 5 *portion shall not be subject to any further administrative*
 6 *or judicial review.”.*

7 (e) *CLERICAL AMENDMENT.—The table of sections for*
 8 *part I of subchapter B of chapter 68 is amended by striking*
 9 *the item relating to section 6702 and inserting the following*
 10 *new item:*

“Sec. 6702. Frivolous tax submissions.”.

11 (f) *EFFECTIVE DATE.—The amendments made by this*
 12 *section shall apply to submissions made and issues raised*
 13 *after the date on which the Secretary first prescribes a list*
 14 *under section 6702(c) of the Internal Revenue Code of 1986,*
 15 *as amended by subsection (a).*

16 **SEC. 209. EXTENSION OF NOTICE REQUIREMENTS WITH RE-**
 17 **SPECT TO INTEREST AND PENALTY CALCULA-**
 18 **TIONS.**

19 *Sections 3306(c) and 3308(c) of the Internal Revenue*
 20 *Service Restructuring and Reform Act of 1998 are each*
 21 *amended by inserting “and during the period beginning on*
 22 *the date of the enactment of the Tax Administration Good*
 23 *Government Act, and ending before July 1, 2006,” after*
 24 *“July 1, 2003,”.*

1 **SEC. 210. EXPANSION OF INTEREST NETTING.**

2 (a) *IN GENERAL.*—Subsection (d) of section 6621 (re-
3 *lating to elimination of interest on overlapping periods of*
4 *tax overpayments and underpayments)* is amended by add-
5 *ing at the end the following: “Solely for purposes of the pre-*
6 *ceding sentence, section 6611(e) shall not apply.”.*

7 (b) *EFFECTIVE DATE.*—The amendment made by this
8 *section shall apply to interest accrued after December 31,*
9 *2010.*

10 **TITLE III—UNITED STATES TAX**
11 **COURT MODERNIZATION**
12 **Subtitle A—Tax Court Procedure**

13 **SEC. 301. JURISDICTION OF TAX COURT OVER COLLECTION**
14 **DUE PROCESS CASES.**

15 (a) *IN GENERAL.*—Paragraph (1) of section 6330(d)
16 *(relating to proceeding after hearing)* is amended to read
17 *as follows:*

18 “(1) *JUDICIAL REVIEW OF DETERMINATION.*—
19 *The person may, within 30 days of a determination*
20 *under this section, appeal such determination to the*
21 *Tax Court (and the Tax Court shall have jurisdiction*
22 *with respect to such matter).”.*

23 (b) *EFFECTIVE DATE.*—The amendment made by this
24 *section shall apply to determinations made after the date*
25 *which is 60 days after the date of the enactment of this*
26 *Act.*

1 **SEC. 302. AUTHORITY FOR SPECIAL TRIAL JUDGES TO**
 2 **HEAR AND DECIDE CERTAIN EMPLOYMENT**
 3 **STATUS CASES.**

4 (a) *IN GENERAL.*—Section 7443A(b) (relating to pro-
 5 ceedings which may be assigned to special trial judges) is
 6 amended by striking “and” at the end of paragraph (4),
 7 by redesignating paragraph (5) as paragraph (6), and by
 8 inserting after paragraph (4) the following new paragraph:
 9 “(5) any proceeding under section 7436(c), and”.

10 (b) *CONFORMING AMENDMENT.*—Section 7443A(c) is
 11 amended by striking “or (4)” and inserting “(4), or (5)”.

12 (c) *EFFECTIVE DATE.*—The amendments made by this
 13 section shall apply to any proceeding under section 7436(c)
 14 of the Internal Revenue Code of 1986 with respect to which
 15 a decision has not become final (as determined under sec-
 16 tion 7481 of such Code) before the date of the enactment
 17 of this Act.

18 **SEC. 303. CONFIRMATION OF AUTHORITY OF TAX COURT TO**
 19 **APPLY DOCTRINE OF EQUITABLE**
 20 **RECOUPMENT.**

21 (a) *CONFIRMATION OF AUTHORITY OF TAX COURT TO*
 22 *APPLY DOCTRINE OF EQUITABLE RECOUPMENT.*—Section
 23 6214(b) (relating to jurisdiction over other years and quar-
 24 ters) is amended by adding at the end the following new
 25 sentence: “Notwithstanding the preceding sentence, the Tax
 26 Court may apply the doctrine of equitable recoupment to

1 *the same extent that it is available in civil tax cases before*
 2 *the district courts of the United States and the United*
 3 *States Court of Federal Claims.”.*

4 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 5 *section shall apply to any action or proceeding in the*
 6 *United States Tax Court with respect to which a decision*
 7 *has not become final (as determined under section 7481 of*
 8 *the Internal Revenue Code of 1986) as of the date of the*
 9 *enactment of this Act.*

10 **SEC. 304. TAX COURT FILING FEE IN ALL CASES COM-**
 11 **MENCED BY FILING PETITION.**

12 (a) *IN GENERAL.*—*Section 7451 (relating to fee for fil-*
 13 *ing a Tax Court petition) is amended by striking all that*
 14 *follows “petition” and inserting a period.*

15 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 16 *section shall take effect on the date of the enactment of this*
 17 *Act.*

18 **SEC. 305. AMENDMENTS TO APPOINT EMPLOYEES.**

19 (a) *IN GENERAL.*—*Subsection (a) of section 7471 (re-*
 20 *lating to Tax Court employees) is amended to read as fol-*
 21 *lows:*

22 “(a) *APPOINTMENT AND COMPENSATION.*—

23 “(1) *CLERK.*—*The Tax Court may appoint a*
 24 *clerk without regard to the provisions of title 5,*
 25 *United States Code, governing appointments in the*

1 *competitive service. The clerk shall serve at the pleas-*
 2 *ure of the Tax Court.*

3 “(2) *LAW CLERKS AND SECRETARIES.*—

4 “(A) *IN GENERAL.*—*The judges and special*
 5 *trial judges of the Tax Court may appoint law*
 6 *clerks and secretaries, in such numbers as the*
 7 *Tax Court may approve, without regard to the*
 8 *provisions of title 5, United States Code, gov-*
 9 *erning appointments in the competitive service.*
 10 *Any such law clerk or secretary shall serve at the*
 11 *pleasure of the appointing judge.*

12 “(B) *EXEMPTION FROM FEDERAL LEAVE*
 13 *PROVISIONS.*—*A law clerk appointed under this*
 14 *subsection shall be exempt from the provisions of*
 15 *subchapter I of chapter 63 of title 5, United*
 16 *States Code. Any unused sick leave or annual*
 17 *leave standing to the employee’s credit as of the*
 18 *effective date of this subsection shall remain*
 19 *credited to the employee and shall be available to*
 20 *the employee upon separation from the Federal*
 21 *Government.*

22 “(3) *OTHER EMPLOYEES.*—*The Tax Court may*
 23 *appoint necessary employees without regard to the*
 24 *provisions of title 5, United States Code, governing*

1 *appointments in the competitive service. Such em-*
 2 *ployees shall be subject to removal by the Tax Court.*

3 “(4) *PAY.*—*The Tax Court may fix and adjust*
 4 *the compensation for the clerk and other employees of*
 5 *the Tax Court without regard to the provisions of*
 6 *chapter 51, subchapter III of chapter 53, or section*
 7 *5373 of title 5, United States Code. To the maximum*
 8 *extent feasible, the Tax Court shall compensate em-*
 9 *ployees at rates consistent with those for employees*
 10 *holding comparable positions in the judicial branch.*

11 “(5) *PROGRAMS.*—*The Tax Court may establish*
 12 *programs for employee evaluations, incentive awards,*
 13 *flexible work schedules, premium pay, and resolution*
 14 *of employee grievances.*

15 “(6) *DISCRIMINATION PROHIBITED.*—*The Tax*
 16 *Court shall—*

17 “(A) *prohibit discrimination on the basis of*
 18 *race, color, religion, age, sex, national origin, po-*
 19 *litical affiliation, marital status, or handi-*
 20 *capping condition; and*

21 “(B) *promulgate procedures for resolving*
 22 *complaints of discrimination by employees and*
 23 *applicants for employment.*

1 “(7) *EXPERTS AND CONSULTANTS.*—*The Tax*
 2 *Court may procure the services of experts and consult-*
 3 *ants under section 3109 of title 5, United States Code.*

4 “(8) *RIGHTS TO CERTAIN APPEALS RESERVED.*—
 5 *Notwithstanding any other provision of law, an indi-*
 6 *vidual who is an employee of the Tax Court on the*
 7 *day before the effective date of this subsection and*
 8 *who, as of that day, was entitled to—*

9 “(A) *appeal a reduction in grade or re-*
 10 *moval to the Merit Systems Protection Board*
 11 *under chapter 43 of title 5, United States Code,*

12 “(B) *appeal an adverse action to the Merit*
 13 *Systems Protection Board under chapter 75 of*
 14 *title 5, United States Code,*

15 “(C) *appeal a prohibited personnel practice*
 16 *described under section 2302(b) of title 5, United*
 17 *States Code, to the Merit Systems Protection*
 18 *Board under chapter 77 of that title,*

19 “(D) *make an allegation of a prohibited*
 20 *personnel practice described under section*
 21 *2302(b) of title 5, United States Code, with the*
 22 *Office of Special Counsel under chapter 12 of*
 23 *that title for action in accordance with that*
 24 *chapter, or*

1 “(E) file an appeal with the Equal Employ-
 2 ment Opportunity Commission under part 1614
 3 of title 29 of the Code of Federal Regulations,
 4 shall be entitled to file such appeal or make such an
 5 allegation so long as the individual remains an em-
 6 ployee of the Tax Court.

7 “(9) *COMPETITIVE STATUS*.—Notwithstanding
 8 any other provision of law, any employee of the Tax
 9 Court who has completed at least 1 year of continuous
 10 service under a non-temporary appointment with the
 11 Tax Court acquires a competitive status for appoint-
 12 ment to any position in the competitive service for
 13 which the employee possesses the required qualifica-
 14 tions.

15 “(10) *MERIT SYSTEM PRINCIPLES; PROHIBITED*
 16 *PERSONNEL PRACTICES; AND PREFERENCE ELIGI-*
 17 *BLES*.—Any personnel management system of the Tax
 18 Court shall—

19 “(A) include the principles set forth in sec-
 20 tion 2301(b) of title 5, United States Code;

21 “(B) prohibit personnel practices prohibited
 22 under section 2302(b) of title 5, United States
 23 Code; and

24 “(C) in the case of any individual who
 25 would be a preference eligible in the executive

1 *branch, the Tax Court will provide preference for*
 2 *that individual in a manner and to an extent*
 3 *consistent with preference accorded to preference*
 4 *eligibles in the executive branch.”.*

5 ***(b) EFFECTIVE DATE.***—*The amendments made by this*
 6 *section shall take effect on the date the United States Tax*
 7 *Court adopts a personnel management system after the date*
 8 *of the enactment of this Act.*

9 **SEC. 306. EXPANDED USE OF TAX COURT PRACTICE FEE**
 10 **FOR PRO SE TAXPAYERS.**

11 ***(a) IN GENERAL.***—*Section 7475(b) (relating to use of*
 12 *fees) is amended by inserting before the period at the end*
 13 *“and to provide services to pro se taxpayers”.*

14 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
 15 *section shall take effect on the date of the enactment of this*
 16 *Act.*

17 ***Subtitle B—Tax Court Pension and***
 18 ***Compensation***

19 **SEC. 311. ANNUITIES FOR SURVIVORS OF TAX COURT**
 20 **JUDGES WHO ARE ASSASSINATED.**

21 ***(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINA-***
 22 ***TION.***—*Subsection (h) of section 7448 (relating to annuities*
 23 *to surviving spouses and dependent children of judges) is*
 24 *amended to read as follows:*

25 ***“(h) ENTITLEMENT TO ANNUITY.—***

1 “(1) *IN GENERAL.*—

2 “(A) *ANNUITY TO SURVIVING SPOUSE.*—If a
3 judge described in paragraph (2) is survived by
4 a surviving spouse but not by a dependent child,
5 there shall be paid to such surviving spouse an
6 annuity beginning with the day of the death of
7 the judge or following the surviving spouse’s at-
8 tainment of the age of 50 years, whichever is the
9 later, in an amount computed as provided in
10 subsection (m).

11 “(B) *ANNUITY TO CHILD.*—If such a judge
12 is survived by a surviving spouse and a depend-
13 ent child or children, there shall be paid to such
14 surviving spouse an immediate annuity in an
15 amount computed as provided in subsection (m),
16 and there shall also be paid to or on behalf of
17 each such child an immediate annuity equal to
18 the lesser of—

19 “(i) 10 percent of the average annual
20 salary of such judge (determined in accord-
21 ance with subsection (m)), or

22 “(ii) 20 percent of such average annual
23 salary, divided by the number of such chil-
24 dren.

1 “(C) *ANNUITY TO SURVIVING DEPENDENT*
 2 *CHILDREN.—If such a judge leaves no surviving*
 3 *spouse but leaves a surviving dependent child or*
 4 *children, there shall be paid to or on behalf of*
 5 *each such child an immediate annuity equal to*
 6 *the lesser of—*

7 “(i) *20 percent of the average annual*
 8 *salary of such judge (determined in accord-*
 9 *ance with subsection (m)), or*

10 “(ii) *40 percent of such average annual*
 11 *salary, divided by the number of such chil-*
 12 *dren.*

13 “(2) *COVERED JUDGES.—Paragraph (1) applies*
 14 *to any judge electing under subsection (b)—*

15 “(A) *who dies while a judge after having*
 16 *rendered at least 5 years of civilian service com-*
 17 *puted as prescribed in subsection (n), for the last*
 18 *5 years of which the salary deductions provided*
 19 *for by subsection (c)(1) or the deposits required*
 20 *by subsection (d) have actually been made or the*
 21 *salary deductions required by the civil service re-*
 22 *tirement laws have actually been made, or*

23 “(B) *who dies by assassination after having*
 24 *rendered less than 5 years of civilian service*
 25 *computed as prescribed in subsection (n) if, for*

1 *the period of such service, the salary deductions*
 2 *provided for by subsection (c)(1) or the deposits*
 3 *required by subsection (d) have actually been*
 4 *made.*

5 *“(3) TERMINATION OF ANNUITY.—*

6 *“(A) IN THE CASE OF A SURVIVING*
 7 *SPOUSE.—The annuity payable to a surviving*
 8 *spouse under this subsection shall be terminable*
 9 *upon such surviving spouse’s death or such sur-*
 10 *viving spouse’s remarriage before attaining age*
 11 *55.*

12 *“(B) IN THE CASE OF A CHILD.—The annu-*
 13 *ity payable to a child under this subsection shall*
 14 *be terminable upon (i) the child attaining the*
 15 *age of 18 years, (ii) the child’s marriage, or (iii)*
 16 *the child’s death, whichever first occurs, except*
 17 *that if such child is incapable of self-support by*
 18 *reason of mental or physical disability the*
 19 *child’s annuity shall be terminable only upon*
 20 *death, marriage, or recovery from such dis-*
 21 *ability.*

22 *“(C) IN THE CASE OF A DEPENDENT CHILD*
 23 *AFTER DEATH OF SURVIVING SPOUSE.—In case*
 24 *of the death of a surviving spouse of a judge*
 25 *leaving a dependent child or children of the*

1 *judge surviving such spouse, the annuity of such*
 2 *child or children shall be recomputed and paid*
 3 *as provided in paragraph (1)(C).*

4 “(D) *RECOMPUTATION.*—*In any case in*
 5 *which the annuity of a dependent child is termi-*
 6 *nated under this subsection, the annuities of any*
 7 *remaining dependent child or children, based*
 8 *upon the service of the same judge, shall be re-*
 9 *computed and paid as though the child whose*
 10 *annuity was so terminated had not survived*
 11 *such judge.*

12 “(4) *SPECIAL RULE FOR ASSASSINATED*
 13 *JUDGES.*—*In the case of a survivor or survivors of a*
 14 *judge described in paragraph (2)(B), there shall be*
 15 *deducted from the annuities otherwise payable under*
 16 *this section an amount equal to—*

17 “(A) *the amount of salary deductions pro-*
 18 *vided for by subsection (c)(1) that would have*
 19 *been made if such deductions had been made for*
 20 *5 years of civilian service computed as pre-*
 21 *scribed in subsection (n) before the judge’s death,*
 22 *reduced by*

23 “(B) *the amount of such salary deductions*
 24 *that were actually made before the date of the*
 25 *judge’s death.”.*

1 (b) *DEFINITION OF ASSASSINATION.*—Section 7448(a)
 2 *(relating to definitions) is amended by adding at the end*
 3 *the following new paragraph:*

4 “(8) *The terms ‘assassinated’ and ‘assassination’*
 5 *mean the killing of a judge that is motivated by the*
 6 *performance by that judge of his or her official du-*
 7 *ties.’”.*

8 (c) *DETERMINATION OF ASSASSINATION.*—Subsection
 9 (i) of section 7448 is amended—

10 (1) *by striking the subsection heading and in-*
 11 *serting the following:*

12 “(i) *DETERMINATIONS BY CHIEF JUDGE.*—

13 “(1) *DEPENDENCY AND DISABILITY.*—”,

14 (2) *by moving the text 2 ems to the right, and*

15 (3) *by adding at the end the following new para-*
 16 *graph:*

17 “(2) *ASSASSINATION.*—*The chief judge shall de-*
 18 *termine whether the killing of a judge was an assas-*
 19 *sination, subject to review only by the Tax Court. The*
 20 *head of any Federal agency that investigates the kill-*
 21 *ing of a judge shall provide information to the chief*
 22 *judge that would assist the chief judge in making such*
 23 *a determination.’”.*

24 (d) *COMPUTATION OF ANNUITIES.*—Subsection (m) of
 25 section 7448 is amended—

1 (1) *by striking the subsection heading and in-*
 2 *serting the following:*

3 “(m) *COMPUTATION OF ANNUITIES.—*

4 *“(1) IN GENERAL.—”,*

5 *(2) by moving the text 2 ems to the right, and*

6 *(3) by adding at the end the following new para-*
 7 *graph:*

8 “(2) *ASSASSINATED JUDGES.—In the case of a*
 9 *judge who is assassinated and who has served less*
 10 *than 3 years, the annuity of the surviving spouse of*
 11 *such judge shall be based upon the average annual*
 12 *salary received by such judge for judicial service.”.*

13 (e) *OTHER BENEFITS.—Section 7448 is amended by*
 14 *adding at the end the following:*

15 “(u) *OTHER BENEFITS.—In the case of a judge who*
 16 *is assassinated, an annuity shall be paid under this section*
 17 *notwithstanding a survivor’s eligibility for or receipt of*
 18 *benefits under chapter 81 of title 5, United States Code,*
 19 *except that the annuity for which a surviving spouse is eli-*
 20 *gible under this section shall be reduced to the extent that*
 21 *the total benefits paid under this section and chapter 81*
 22 *of that title for any year would exceed the current salary*
 23 *for that year of the office of the judge.”.*

1 **SEC. 312. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT**
 2 **JUDICIAL SURVIVOR ANNUITIES.**

3 (a) *IN GENERAL.*—Subsection (s) of section 7448 (re-
 4 lating to annuities to surviving spouses and dependent chil-
 5 dren of judges) is amended to read as follows:

6 “(s) *INCREASES IN SURVIVOR ANNUITIES.*—Each time
 7 that an increase is made under section 8340(b) of title 5,
 8 United States Code, in annuities payable under subchapter
 9 III of chapter 83 of that title, each annuity payable from
 10 the survivors annuity fund under this section shall be in-
 11 creased at the same time by the same percentage by which
 12 annuities are increased under such section 8340(b).”.

13 (b) *EFFECTIVE DATE.*—The amendments made by this
 14 section shall apply with respect to increases made under
 15 section 8340(b) of title 5, United States Code, in annuities
 16 payable under subchapter III of chapter 83 of that title,
 17 taking effect after the date of the enactment of this Act.

18 **SEC. 313. LIFE INSURANCE COVERAGE FOR TAX COURT**
 19 **JUDGES.**

20 (a) *IN GENERAL.*—Section 7447 (relating to retire-
 21 ment of judges) is amended by adding at the end the fol-
 22 lowing new subsection:

23 “(j) *LIFE INSURANCE COVERAGE.*—For purposes
 24 of chapter 87 of title 5, United States Code (relating
 25 to life insurance), any individual who is serving as
 26 a judge of the Tax Court or who is retired under this

8 *SEC. 314. COST OF LIFE INSURANCE COVERAGE FOR TAX*
9 *COURT JUDGES AGE 65 OR OVER.*

21 *SEC. 315. MODIFICATION OF TIMING OF LUMP-SUM PAY-*
22 *MENT OF JUDGES' ACCRUED ANNUAL LEAVE.*

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1 “(h) *LUMP-SUM PAYMENT OF JUDGES’ ACCRUED AN-*
 2 *NUAL LEAVE.*—Notwithstanding the provisions of sections
 3 5551 and 6301 of title 5, United States Code, when an indi-
 4 vidual subject to the leave system provided in chapter 63
 5 of that title is appointed by the President to be a judge
 6 of the Tax Court, the individual shall be entitled to receive,
 7 upon appointment to the Tax Court, a lump-sum payment
 8 from the Tax Court of the accumulated and accrued current
 9 annual leave standing to the individual’s credit as certified
 10 by the agency from which the individual resigned.”.

11 (b) *EFFECTIVE DATE.*—The amendment made by this
 12 section shall apply to any judge of the United States Tax
 13 Court who has an outstanding leave balance on the date
 14 of the enactment of this Act and to any individual ap-
 15 pointed by the President to serve as a judge of the United
 16 States Tax Court after such date.

17 **SEC. 316. PARTICIPATION OF TAX COURT JUDGES IN THE**
 18 **THRIFT SAVINGS PLAN.**

19 (a) *IN GENERAL.*—Section 7447 (relating to retire-
 20 ment of judges), as amended by this Act, is amended by
 21 adding at the end the following new subsection:

22 “(k) *THRIFT SAVINGS PLAN.*—

23 “(1) *ELECTION TO CONTRIBUTE.*—

24 “(A) *IN GENERAL.*—A judge of the Tax
 25 Court may elect to contribute to the Thrift Sav-

1 *ings Fund established by section 8437 of title 5,*
 2 *United States Code.*

3 “(B) *PERIOD OF ELECTION.*—*An election*
 4 *may be made under this paragraph only during*
 5 *a period provided under section 8432(b) of title*
 6 *5, United States Code, for individuals subject to*
 7 *chapter 84 of such title.*

8 “(2) *APPLICABILITY OF TITLE 5 PROVISIONS.*—
 9 *Except as otherwise provided in this subsection, the*
 10 *provisions of subchapters III and VII of chapter 84*
 11 *of title 5, United States Code, shall apply with re-*
 12 *spect to a judge who makes an election under para-*
 13 *graph (1).*

14 “(3) *SPECIAL RULES.*—

15 “(A) *AMOUNT CONTRIBUTED.*—*The amount*
 16 *contributed by a judge to the Thrift Savings*
 17 *Fund in any pay period shall not exceed the*
 18 *maximum percentage of such judge’s basic pay*
 19 *for such period as allowable under section 8440f*
 20 *of title 5, United States Code. Basic pay does not*
 21 *include any retired pay paid pursuant to this*
 22 *section.*

23 “(B) *CONTRIBUTIONS FOR BENEFIT OF*
 24 *JUDGE.*—*No contributions may be made for the*

1 *benefit of a judge under section 8432(c) of title*
 2 *5, United States Code.*

3 “(C) *APPLICABILITY OF SECTION 8433(b) OF*
 4 *TITLE 5 WHETHER OR NOT JUDGE RETIRES.—*
 5 *Section 8433(b) of title 5, United States Code,*
 6 *applies with respect to a judge who makes an*
 7 *election under paragraph (1) and who either—*

8 “(i) *retires under subsection (b), or*

9 “(ii) *ceases to serve as a judge of the*
 10 *Tax Court but does not retire under sub-*
 11 *section (b).*

12 *Retirement under subsection (b) is a separation*
 13 *from service for purposes of subchapters III and*
 14 *VII of chapter 84 of that title.*

15 “(D) *APPLICABILITY OF SECTION 8351(b)(5)*
 16 *OF TITLE 5.—The provisions of section*
 17 *8351(b)(5) of title 5, United States Code, shall*
 18 *apply with respect to a judge who makes an elec-*
 19 *tion under paragraph (1).*

20 “(E) *EXCEPTION.—Notwithstanding sub-*
 21 *paragraph (C), if any judge retires under this*
 22 *section, or resigns without having met the age*
 23 *and service requirements set forth under sub-*
 24 *section (b)(2), and such judge’s nonforfeitable ac-*
 25 *count balance is less than an amount that the*

1 *Executive Director of the Office of Personnel*
 2 *Management prescribes by regulation, the Execu-*
 3 *tive Director shall pay the nonforfeitable account*
 4 *balance to the participant in a single payment.”.*

5 **(b) EFFECTIVE DATE.**—*The amendment made by this*
 6 *section shall take effect on the date of the enactment of this*
 7 *Act, except that United States Tax Court judges may only*
 8 *begin to participate in the Thrift Savings Plan at the next*
 9 *open season beginning after such date.*

10 **SEC. 317. EXEMPTION OF TEACHING COMPENSATION OF RE-**
 11 **TIRED JUDGES FROM LIMITATION ON OUT-**
 12 **SIDE EARNED INCOME.**

13 **(a) IN GENERAL.**—*Section 7447 (relating to retire-*
 14 *ment of judges), as amended by this Act, is amended by*
 15 *adding at the end the following new subsection:*

16 **“(l) TEACHING COMPENSATION OF RETIRED**
 17 **JUDGES.**—*For purposes of the limitation under section*
 18 *501(a) of the Ethics in Government Act of 1978 (5 U.S.C.*
 19 *App.), any compensation for teaching approved under sec-*
 20 *tion 502(a)(5) of such Act shall not be treated as outside*
 21 *earned income when received by a judge of the Tax Court*
 22 *who has retired under subsection (b) for teaching performed*
 23 *during any calendar year for which such a judge has met*
 24 *the requirements of subsection (c), as certified by the chief*
 25 *judge of the Tax Court.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to any individual serving as a retired*
 3 *judge of the United States Tax Court on or after the date*
 4 *of the enactment of this Act.*

5 **SEC. 318. GENERAL PROVISIONS RELATING TO MAG-**
 6 **ISTRATE JUDGES OF THE TAX COURT.**

7 (a) *TITLE OF SPECIAL TRIAL JUDGE CHANGED TO*
 8 *MAGISTRATE JUDGE OF THE TAX COURT.*—*The heading of*
 9 *section 7443A is amended to read as follows:*

10 **“SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.”.**

11 (b) *APPOINTMENT, TENURE, AND REMOVAL.*—*Sub-*
 12 *section (a) of section 7443A is amended to read as follows:*

13 “(a) *APPOINTMENT, TENURE, AND REMOVAL.*—

14 “(1) *APPOINTMENT.*—*The chief judge may, from*
 15 *time to time, appoint and reappoint magistrate*
 16 *judges of the Tax Court for a term of 8 years. The*
 17 *magistrate judges of the Tax Court shall proceed*
 18 *under such rules as may be promulgated by the Tax*
 19 *Court.*

20 “(2) *REMOVAL.*—*Removal of a magistrate judge*
 21 *of the Tax Court during the term for which he or she*
 22 *is appointed shall be only for incompetency, mis-*
 23 *conduct, neglect of duty, or physical or mental dis-*
 24 *ability, but the office of a magistrate judge of the Tax*
 25 *Court shall be terminated if the judges of the Tax*

1 *Court determine that the services performed by the*
 2 *magistrate judge of the Tax Court are no longer need-*
 3 *ed. Removal shall not occur unless a majority of all*
 4 *the judges of the Tax Court concur in the order of re-*
 5 *moval. Before any order of removal shall be entered,*
 6 *a full specification of the charges shall be furnished*
 7 *to the magistrate judge of the Tax Court, and he or*
 8 *she shall be accorded by the judges of the Tax Court*
 9 *an opportunity to be heard on the charges.”.*

10 *(c) SALARY.—Section 7443A(d) (relating to salary) is*
 11 *amended by striking “90” and inserting “92”.*

12 *(d) EXEMPTION FROM FEDERAL LEAVE PROVI-*
 13 *SIONS.—Section 7443A is amended by adding at the end*
 14 *the following new subsection:*

15 *“(f) EXEMPTION FROM FEDERAL LEAVE PROVI-*
 16 *SIONS.—*

17 *“(1) IN GENERAL.—A magistrate judge of the*
 18 *Tax Court appointed under this section shall be ex-*
 19 *empt from the provisions of subchapter I of chapter*
 20 *63 of title 5, United States Code.*

21 *“(2) TREATMENT OF UNUSED LEAVE.—*

22 *“(A) AFTER SERVICE AS MAGISTRATE*
 23 *JUDGE.—If an individual who is exempted*
 24 *under paragraph (1) from the subchapter re-*
 25 *ferred to in such paragraph was previously sub-*

1 *ject to such subchapter and, without a break in*
 2 *service, again becomes subject to such subchapter*
 3 *on completion of the individual's service as a*
 4 *magistrate judge, the unused annual leave and*
 5 *sick leave standing to the individual's credit*
 6 *when such individual was exempted from this*
 7 *subchapter is deemed to have remained to the in-*
 8 *dividual's credit.*

9 “(B) COMPUTATION OF ANNUITY.—In com-
 10 *puting an annuity under section 8339 of title 5,*
 11 *United States Code, the total service of an indi-*
 12 *vidual specified in subparagraph (A) who retires*
 13 *on an immediate annuity or dies leaving a sur-*
 14 *vivor or survivors entitled to an annuity in-*
 15 *cludes, without regard to the limitations imposed*
 16 *by subsection (f) of such section 8339, the days*
 17 *of unused sick leave standing to the individual's*
 18 *credit when such individual was exempted from*
 19 *subchapter I of chapter 63 of title 5, United*
 20 *States Code, except that these days will not be*
 21 *counted in determining average pay or annuity*
 22 *eligibility.*

23 “(C) LUMP SUM PAYMENT.—Any accumu-
 24 *lated and current accrued annual leave or vaca-*
 25 *tion balances credited to a magistrate judge as of*

1 *the date of the enactment of this subsection shall*
 2 *be paid in a lump sum at the time of separation*
 3 *from service pursuant to the provisions and re-*
 4 *strictions set forth in section 5551 of title 5,*
 5 *United States Code, and related provisions re-*
 6 *ferred to in such section.”.*

7 *(e) CONFORMING AMENDMENTS.—*

8 *(1) The heading of subsection (b) of section*
 9 *7443A is amended by striking “SPECIAL TRIAL*
 10 *JUDGES” and inserting “MAGISTRATE JUDGES OF*
 11 *THE TAX COURT”.*

12 *(2) Section 7443A(b) is amended by striking*
 13 *“special trial judges of the court” and inserting*
 14 *“magistrate judges of the Tax Court”.*

15 *(3) Subsections (c) and (d) of section 7443A are*
 16 *amended by striking “special trial judge” and insert-*
 17 *ing “magistrate judge of the Tax Court” each place*
 18 *it appears.*

19 *(4) Section 7443A(e) is amended by striking*
 20 *“special trial judges” and inserting “magistrate*
 21 *judges of the Tax Court”.*

22 *(5) Section 7456(a) is amended by striking “spe-*
 23 *cial trial judge” each place it appears and inserting*
 24 *“magistrate judge”.*

25 *(6) Subsection (c) of section 7471 is amended—*

1 (A) by striking the subsection heading and
 2 inserting “MAGISTRATE JUDGES OF THE TAX
 3 COURT.—”, and

4 (B) by striking “special trial judges” and
 5 inserting “magistrate judges”.

6 **SEC. 319. ANNUITIES TO SURVIVING SPOUSES AND DE-**
 7 **PENDENT CHILDREN OF MAGISTRATE**
 8 **JUDGES OF THE TAX COURT.**

9 (a) *DEFINITIONS.*—Section 7448(a) (relating to defini-
 10 tions), as amended by this Act, is amended by redesignating
 11 paragraphs (5), (6), (7), and (8) as paragraphs (7), (8),
 12 (9), and (10), respectively, and by inserting after para-
 13 graph (4) the following new paragraphs:

14 “(5) The term ‘magistrate judge’ means a judi-
 15 cial officer appointed pursuant to section 7443A, in-
 16 cluding any individual receiving an annuity under
 17 section 7443B, or chapters 83 or 84, as the case may
 18 be, of title 5, United States Code, whether or not per-
 19 forming judicial duties under section 7443C.

20 “(6) The term ‘magistrate judge’s salary’ means
 21 the salary of a magistrate judge received under sec-
 22 tion 7443A(d), any amount received as an annuity
 23 under section 7443B, or chapters 83 or 84, as the case
 24 may be, of title 5, United States Code, and compensa-
 25 tion received under section 7443C.”.

1 (b) *ELECTION*.—Subsection (b) of section 7448 (relat-
 2 ing to annuities to surviving spouses and dependent chil-
 3 dren of judges) is amended—

4 (1) by striking the subsection heading and in-
 5 serting the following:

6 “(b) *ELECTION*.—

7 “(1) *JUDGES*.—”,

8 (2) by moving the text 2 ems to the right, and

9 (3) by adding at the end the following new para-
 10 graph:

11 “(2) *MAGISTRATE JUDGES*.—Any magistrate
 12 judge may by written election filed with the chief
 13 judge bring himself or herself within the purview of
 14 this section. Such election shall be filed not later than
 15 the later of 6 months after—

16 “(A) 6 months after the date of the enact-
 17 ment of this paragraph,

18 “(B) the date the judge takes office, or

19 “(C) the date the judge marries.”.

20 (c) *CONFORMING AMENDMENTS*.—

21 (1) The heading of section 7448 is amended by
 22 inserting “**AND MAGISTRATE JUDGES**” after
 23 “**JUDGES**”.

24 (2) The item relating to section 7448 in the table
 25 of sections for part I of subchapter C of chapter 76

1 *is amended by inserting “and magistrate judges”*
 2 *after “judges”.*

3 *(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m),*
 4 *(n), and (u) of section 7448, as amended by this Act,*
 5 *are each amended—*

6 *(A) by inserting “or magistrate judge” after*
 7 *“judge” each place it appears other than in the*
 8 *phrase “chief judge”, and*

9 *(B) by inserting “or magistrate judge’s”*
 10 *after “judge’s” each place it appears.*

11 *(4) Section 7448(c) is amended—*

12 *(A) in paragraph (1), by striking “Tax*
 13 *Court judges” and inserting “Tax Court judicial*
 14 *officers”,*

15 *(B) in paragraph (2)—*

16 *(i) in subparagraph (A), by inserting*
 17 *“and section 7443A(d)” after “(a)(4)”, and*

18 *(ii) in subparagraph (B), by striking*
 19 *“subsection (a)(4)” and inserting “sub-*
 20 *sections (a)(4) and (a)(6)”.*

21 *(5) Section 7448(g) is amended by inserting “or*
 22 *section 7443B” after “section 7447” each place it ap-*
 23 *pears, and by inserting “or an annuity” after “re-*
 24 *tired pay”.*

25 *(6) Section 7448(j)(1) is amended—*

1 (A) in subparagraph (A), by striking “serv-
 2 ice or retired” and inserting “service, retired”,
 3 and by inserting “, or receiving any annuity
 4 under section 7443B or chapters 83 or 84 of title
 5 5, United States Code,” after “section 7447”,
 6 and

7 (B) in the last sentence, by striking “sub-
 8 sections (a)(6) and (7)” and inserting “para-
 9 graphs (8) and (9) of subsection (a)”.

10 (7) Section 7448(m)(1), as amended by this Act,
 11 is amended—

12 (A) by inserting “or any annuity under sec-
 13 tion 7443B or chapters 83 or 84 of title 5,
 14 United States Code” after “7447(d)”, and

15 (B) by inserting “or 7443B(m)(1)(B) after
 16 “7447(f)(4)”.

17 (8) Section 7448(n) is amended by inserting “his
 18 years of service pursuant to any appointment under
 19 section 7443A,” after “of the Tax Court,”.

20 (9) Section 3121(b)(5)(E) is amended by insert-
 21 ing “or magistrate judge” before “of the United States
 22 Tax Court”.

23 (10) Section 210(a)(5)(E) of the Social Security
 24 Act is amended by inserting “or magistrate judge” be-
 25 fore “of the United States Tax Court”.

1 **SEC. 320. RETIREMENT AND ANNUITY PROGRAM.**

2 (a) *RETIREMENT AND ANNUITY PROGRAM.*—Part I of
3 subchapter C of chapter 76 is amended by inserting after
4 section 7443A the following new section:

5 **“SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF**
6 **THE TAX COURT.**

7 “(a) *RETIREMENT BASED ON YEARS OF SERVICE.*—
8 A magistrate judge of the Tax Court to whom this section
9 applies and who retires from office after attaining the age
10 of 65 years and serving at least 14 years, whether continu-
11 ously or otherwise, as such magistrate judge shall, subject
12 to subsection (f), be entitled to receive, during the remainder
13 of the magistrate judge’s lifetime, an annuity equal to the
14 salary being received at the time the magistrate judge leaves
15 office.

16 “(b) *RETIREMENT UPON FAILURE OF REAPPOINT-*
17 *MENT.*—A magistrate judge of the Tax Court to whom this
18 section applies who is not reappointed following the expira-
19 tion of the term of office of such magistrate judge, and who
20 retires upon the completion of the term shall, subject to sub-
21 section (f), be entitled to receive, upon attaining the age
22 of 65 years and during the remainder of such magistrate
23 judge’s lifetime, an annuity equal to that portion of the sal-
24 ary being received at the time the magistrate judge leaves
25 office which the aggregate number of years of service, not
26 to exceed 14, bears to 14, if—

1 “(1) *such magistrate judge has served at least 1*
 2 *full term as a magistrate judge, and*

3 “(2) *not earlier than 9 months before the date on*
 4 *which the term of office of such magistrate judge ex-*
 5 *pires, and not later than 6 months before such date,*
 6 *such magistrate judge notified the chief judge of the*
 7 *Tax Court in writing that such magistrate judge was*
 8 *willing to accept reappointment to the position in*
 9 *which such magistrate judge was serving.*

10 “(c) *SERVICE OF AT LEAST 8 YEARS.—A magistrate*
 11 *judge of the Tax Court to whom this section applies and*
 12 *who retires after serving at least 8 years, whether continu-*
 13 *ously or otherwise, as such a magistrate judge shall, subject*
 14 *to subsection (f), be entitled to receive, upon attaining the*
 15 *age of 65 years and during the remainder of the magistrate*
 16 *judge’s lifetime, an annuity equal to that portion of the sal-*
 17 *ary being received at the time the magistrate judge leaves*
 18 *office which the aggregate number of years of service, not*
 19 *to exceed 14, bears to 14. Such annuity shall be reduced*
 20 *by $\frac{1}{6}$ of 1 percent for each full month such magistrate judge*
 21 *was under the age of 65 at the time the magistrate judge*
 22 *left office, except that such reduction shall not exceed 20*
 23 *percent.*

24 “(d) *RETIREMENT FOR DISABILITY.—A magistrate*
 25 *judge of the Tax Court to whom this section applies, who*

1 *has served at least 5 years, whether continuously or other-*
 2 *wise, as such a magistrate judge, and who retires or is re-*
 3 *moved from office upon the sole ground of mental or phys-*
 4 *ical disability shall, subject to subsection (f), be entitled to*
 5 *receive, during the remainder of the magistrate judge's life-*
 6 *time, an annuity equal to 40 percent of the salary being*
 7 *received at the time of retirement or removal or, in the case*
 8 *of a magistrate judge who has served for at least 10 years,*
 9 *an amount equal to that proportion of the salary being re-*
 10 *ceived at the time of retirement or removal which the aggre-*
 11 *gate number of years of service, not to exceed 14, bears to*
 12 *14.*

13 “(e) *COST-OF-LIVING ADJUSTMENTS.*—A magistrate
 14 *judge of the Tax Court who is entitled to an annuity under*
 15 *this section is also entitled to a cost-of-living adjustment*
 16 *in such annuity, calculated and payable in the same man-*
 17 *ner as adjustments under section 8340(b) of title 5, United*
 18 *States Code, except that any such annuity, as increased*
 19 *under this subsection, may not exceed the salary then pay-*
 20 *able for the position from which the magistrate judge retired*
 21 *or was removed.*

22 “(f) *ELECTION; ANNUITY IN LIEU OF OTHER ANNU-*
 23 *ITIES.*—

24 “(1) *IN GENERAL.*—A magistrate judge of the
 25 *Tax Court shall be entitled to an annuity under this*

1 *section if the magistrate judge elects an annuity*
 2 *under this section by notifying the chief judge of the*
 3 *Tax Court not later than the later of—*

4 *“(A) 5 years after the magistrate judge of*
 5 *the Tax Court begins judicial service, or*

6 *“(B) 5 years after the date of the enactment*
 7 *of this subsection.*

8 *Such notice shall be given in accordance with proce-*
 9 *dures prescribed by the Tax Court.*

10 *“(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A*
 11 *magistrate judge who elects to receive an annuity*
 12 *under this section shall not be entitled to receive—*

13 *“(A) any annuity to which such magistrate*
 14 *judge would otherwise have been entitled under*
 15 *subchapter III of chapter 83, or under chapter*
 16 *84 (except for subchapters III and VII), of title*
 17 *5, United States Code, for service performed as*
 18 *a magistrate or otherwise,*

19 *“(B) an annuity or salary in senior status*
 20 *or retirement under section 371 or 372 of title*
 21 *28, United States Code,*

22 *“(C) retired pay under section 7447, or*

23 *“(D) retired pay under section 7296 of title*
 24 *38, United States Code.*

1 “(3) *COORDINATION WITH TITLE 5.*—A mag-
 2 istrate judge of the Tax Court who elects to receive an
 3 annuity under this section—

4 “(A) shall not be subject to deductions and
 5 contributions otherwise required by section
 6 8334(a) of title 5, United States Code,

7 “(B) shall be excluded from the operation of
 8 chapter 84 (other than subchapters III and VII)
 9 of such title 5, and

10 “(C) is entitled to a lump-sum credit under
 11 section 8342(a) or 8424 of such title 5, as the
 12 case may be.

13 “(g) *CALCULATION OF SERVICE.*—For purposes of cal-
 14 culating an annuity under this section—

15 “(1) service as a magistrate judge of the Tax
 16 Court to whom this section applies may be credited,
 17 and

18 “(2) each month of service shall be credited as
 19 $\frac{1}{12}$ of a year, and the fractional part of any month
 20 shall not be credited.

21 “(h) *COVERED POSITIONS AND SERVICE.*—This section
 22 applies to any magistrate judge of the Tax Court or special
 23 trial judge of the Tax Court appointed under this sub-
 24 chapter, but only with respect to service as such a mag-
 25 istrate judge or special trial judge after a date not earlier

1 *than 9½ years before the date of the enactment of this sub-*
 2 *section.*

3 “(i) *PAYMENTS PURSUANT TO COURT ORDER.*—

4 “(1) *IN GENERAL.*—*Payments under this section*
 5 *which would otherwise be made to a magistrate judge*
 6 *of the Tax Court based upon his or her service shall*
 7 *be paid (in whole or in part) by the chief judge of the*
 8 *Tax Court to another person if and to the extent ex-*
 9 *pressly provided for in the terms of any court decree*
 10 *of divorce, annulment, or legal separation, or the*
 11 *terms of any court order or court-approved property*
 12 *settlement agreement incident to any court decree of*
 13 *divorce, annulment, or legal separation. Any payment*
 14 *under this paragraph to a person bars recovery by*
 15 *any other person.*

16 “(2) *REQUIREMENTS FOR PAYMENT.*—*Paragraph*
 17 *(1) shall apply only to payments made by the chief*
 18 *judge of the Tax Court after the date of receipt by the*
 19 *chief judge of written notice of such decree, order, or*
 20 *agreement, and such additional information as the*
 21 *chief judge may prescribe.*

22 “(3) *COURT DEFINED.*—*For purposes of this sub-*
 23 *section, the term ‘court’ means any court of any*
 24 *State, the District of Columbia, the Commonwealth of*
 25 *Puerto Rico, Guam, the Northern Mariana Islands, or*

1 *the Virgin Islands, and any Indian tribal court or*
 2 *courts of Indian offense.*

3 “(j) *DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—*

4 “(1) *DEDUCTIONS.—Beginning with the next*
 5 *pay period after the chief judge of the Tax Court re-*
 6 *ceives a notice under subsection (f) that a magistrate*
 7 *judge of the Tax Court has elected an annuity under*
 8 *this section, the chief judge shall deduct and withhold*
 9 *1 percent of the salary of such magistrate judge.*
 10 *Amounts shall be so deducted and withheld in a man-*
 11 *ner determined by the chief judge. Amounts deducted*
 12 *and withheld under this subsection shall be deposited*
 13 *in the Treasury of the United States to the credit of*
 14 *the Tax Court Judicial Officers’ Retirement Fund.*
 15 *Deductions under this subsection from the salary of a*
 16 *magistrate judge shall terminate upon the retirement*
 17 *of the magistrate judge or upon completion of 14*
 18 *years of service for which contributions under this*
 19 *section have been made, whether continuously or oth-*
 20 *erwise, as calculated under subsection (g), whichever*
 21 *occurs first.*

22 “(2) *CONSENT TO DEDUCTIONS; DISCHARGE OF*
 23 *CLAIMS.—Each magistrate judge of the Tax Court*
 24 *who makes an election under subsection (f) shall be*
 25 *deemed to consent and agree to the deductions from*

1 *salary which are made under paragraph (1). Pay-*
 2 *ment of such salary less such deductions (and any de-*
 3 *ductions made under section 7448) is a full and com-*
 4 *plete discharge and acquittance of all claims and de-*
 5 *mands for all services rendered by such magistrate*
 6 *judge during the period covered by such payment, ex-*
 7 *cept the right to those benefits to which the magistrate*
 8 *judge is entitled under this section (and section 7448).*

9 “(k) *DEPOSITS FOR PRIOR SERVICE.*—*Each mag-*
 10 *istrate judge of the Tax Court who makes an election under*
 11 *subsection (f) may deposit, for service performed before such*
 12 *election for which contributions may be made under this*
 13 *section, an amount equal to 1 percent of the salary received*
 14 *for that service. Credit for any period covered by that serv-*
 15 *ice may not be allowed for purposes of an annuity under*
 16 *this section until a deposit under this subsection has been*
 17 *made for that period.*

18 “(l) *INDIVIDUAL RETIREMENT RECORDS.*—*The*
 19 *amounts deducted and withheld under subsection (j), and*
 20 *the amounts deposited under subsection (k), shall be credited*
 21 *to individual accounts in the name of each magistrate judge*
 22 *of the Tax Court from whom such amounts are received,*
 23 *for credit to the Tax Court Judicial Officers’ Retirement*
 24 *Fund.*

25 “(m) *ANNUITIES AFFECTED IN CERTAIN CASES.*—

1 “(1) *1-YEAR FORFEITURE FOR FAILURE TO PER-*
 2 *FORM JUDICIAL DUTIES.*—Subject to paragraph (3),
 3 *any magistrate judge of the Tax Court who retires*
 4 *under this section and who fails to perform judicial*
 5 *duties required of such individual by section 7443C*
 6 *shall forfeit all rights to an annuity under this sec-*
 7 *tion for a 1-year period which begins on the 1st day*
 8 *on which such individual fails to perform such duties.*

9 “(2) *PERMANENT FORFEITURE OF RETIRED PAY*
 10 *WHERE CERTAIN NON-GOVERNMENT SERVICES PER-*
 11 *FORMED.*—Subject to paragraph (3), *any magistrate*
 12 *judge of the Tax Court who retires under this section*
 13 *and who thereafter performs (or supervises or directs*
 14 *the performance of) legal or accounting services in the*
 15 *field of Federal taxation for the individual’s client,*
 16 *the individual’s employer, or any of such employer’s*
 17 *clients, shall forfeit all rights to an annuity under*
 18 *this section for all periods beginning on or after the*
 19 *first day on which the individual performs (or super-*
 20 *vises or directs the performance of) such services. The*
 21 *preceding sentence shall not apply to any civil office*
 22 *or employment under the Government of the United*
 23 *States.*

24 “(3) *FORFEITURES NOT TO APPLY WHERE INDIV-*
 25 *VIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.*—

1 “(A) *IN GENERAL.*—If a magistrate judge of
 2 the Tax Court makes an election under this
 3 paragraph—

4 “(i) paragraphs (1) and (2) (and sec-
 5 tion 7443C) shall not apply to such mag-
 6 istrate judge beginning on the date such
 7 election takes effect, and

8 “(ii) the annuity payable under this
 9 section to such magistrate judge, for periods
 10 beginning on or after the date such election
 11 takes effect, shall be equal to the annuity to
 12 which such magistrate judge is entitled on
 13 the day before such effective date.

14 “(B) *ELECTION REQUIREMENTS.*—An elec-
 15 tion under subparagraph (A)—

16 “(i) may be made by a magistrate
 17 judge of the Tax Court eligible for retire-
 18 ment under this section, and

19 “(ii) shall be filed with the chief judge
 20 of the Tax Court.

21 Such an election, once it takes effect, shall be ir-
 22 revocable.

23 “(C) *EFFECTIVE DATE OF ELECTION.*—Any
 24 election under subparagraph (A) shall take effect

1 *on the first day of the first month following the*
 2 *month in which the election is made.*

3 “(4) *ACCEPTING OTHER EMPLOYMENT.*—*Any*
 4 *magistrate judge of the Tax Court who retires under*
 5 *this section and thereafter accepts compensation for*
 6 *civil office or employment under the United States*
 7 *Government (other than for the performance of func-*
 8 *tions as a magistrate judge of the Tax Court under*
 9 *section 7443C) shall forfeit all rights to an annuity*
 10 *under this section for the period for which such com-*
 11 *penetration is received. For purposes of this paragraph,*
 12 *the term ‘compensation’ includes retired pay or sal-*
 13 *ary received in retired status.*

14 “(n) *LUMP-SUM PAYMENTS.*—

15 “(1) *ELIGIBILITY.*—

16 “(A) *IN GENERAL.*—*Subject to paragraph*
 17 *(2), an individual who serves as a magistrate*
 18 *judge of the Tax Court and—*

19 “(i) *who leaves office and is not re-*
 20 *appointed as a magistrate judge of the Tax*
 21 *Court for at least 31 consecutive days,*

22 “(ii) *who files an application with the*
 23 *chief judge of the Tax Court for payment of*
 24 *a lump-sum credit,*

1 “(iii) is not serving as a magistrate
2 judge of the Tax Court at the time of filing
3 of the application, and

4 “(iv) will not become eligible to receive
5 an annuity under this section within 31
6 days after filing the application,
7 is entitled to be paid the lump-sum credit. Pay-
8 ment of the lump-sum credit voids all rights to
9 an annuity under this section based on the serv-
10 ice on which the lump-sum credit is based, until
11 that individual resumes office as a magistrate
12 judge of the Tax Court.

13 “(B) PAYMENT TO SURVIVORS.—Lump-sum
14 benefits authorized by subparagraphs (C), (D),
15 and (E) of this paragraph shall be paid to the
16 person or persons surviving the magistrate judge
17 of the Tax Court and alive on the date title to
18 the payment arises, in the order of precedence set
19 forth in subsection (o) of section 376 of title 28,
20 United States Code, and in accordance with the
21 last 2 sentences of paragraph (1) of that sub-
22 section. For purposes of the preceding sentence,
23 the term ‘judicial official’ as used in subsection
24 (o) of such section 376 shall be deemed to mean
25 ‘magistrate judge of the Tax Court’ and the

1 *terms ‘Administrative Office of the United States*
 2 *Courts’ and ‘Director of the Administrative Of-*
 3 *fice of the United States Courts’ shall be deemed*
 4 *to mean ‘chief judge of the Tax Court’.*

5 *“(C) PAYMENT UPON DEATH OF JUDGE BE-*
 6 *FORE RECEIPT OF ANNUITY.—If a magistrate*
 7 *judge of the Tax Court dies before receiving an*
 8 *annuity under this section, the lump-sum credit*
 9 *shall be paid.*

10 *“(D) PAYMENT OF ANNUITY REMAINDER.—*
 11 *If all annuity rights under this section based on*
 12 *the service of a deceased magistrate judge of the*
 13 *Tax Court terminate before the total annuity*
 14 *paid equals the lump-sum credit, the difference*
 15 *shall be paid.*

16 *“(E) PAYMENT UPON DEATH OF JUDGE*
 17 *DURING RECEIPT OF ANNUITY.—If a magistrate*
 18 *judge of the Tax Court who is receiving an an-*
 19 *nuity under this section dies, any accrued annu-*
 20 *ity benefits remaining unpaid shall be paid.*

21 *“(F) PAYMENT UPON TERMINATION.—Any*
 22 *accrued annuity benefits remaining unpaid on*
 23 *the termination, except by death, of the annuity*
 24 *of a magistrate judge of the Tax Court shall be*
 25 *paid to that individual.*

1 “(G) *PAYMENT UPON ACCEPTING OTHER*
 2 *EMPLOYMENT.*—*Subject to paragraph (2), a*
 3 *magistrate judge of the Tax Court who forfeits*
 4 *rights to an annuity under subsection (m)(4) be-*
 5 *fore the total annuity paid equals the lump-sum*
 6 *credit shall be entitled to be paid the difference*
 7 *if the magistrate judge of the Tax Court files an*
 8 *application with the chief judge of the Tax Court*
 9 *for payment of that difference. A payment under*
 10 *this subparagraph voids all rights to an annuity*
 11 *on which the payment is based.*

12 “(2) *SPOUSES AND FORMER SPOUSES.*—

13 “(A) *IN GENERAL.*—*Payment of the lump-*
 14 *sum credit under paragraph (1)(A) or a pay-*
 15 *ment under paragraph (1)(G)—*

16 “(i) *may be made only if any current*
 17 *spouse and any former spouse of the mag-*
 18 *istrate judge of the Tax Court are notified*
 19 *of the magistrate judge’s application, and*

20 “(ii) *shall be subject to the terms of a*
 21 *court decree of divorce, annulment, or legal*
 22 *separation, or any court or court approved*
 23 *property settlement agreement incident to*
 24 *such decree, if—*

1 “(I) the decree, order, or agree-
2 ment expressly relates to any portion
3 of the lump-sum credit or other pay-
4 ment involved, and

5 “(II) payment of the lump-sum
6 credit or other payment would extin-
7 guish entitlement of the magistrate
8 judge’s spouse or former spouse to any
9 portion of an annuity under subsection
10 (i).

11 “(B) NOTIFICATION.—Notification of a
12 spouse or former spouse under this paragraph
13 shall be made in accordance with such proce-
14 dures as the chief judge of the Tax Court shall
15 prescribe. The chief judge may provide under
16 such procedures that subparagraph (A)(i) may
17 be waived with respect to a spouse or former
18 spouse if the magistrate judge establishes to the
19 satisfaction of the chief judge that the where-
20 abouts of such spouse or former spouse cannot be
21 determined.

22 “(C) RESOLUTION OF 2 OR MORE OR-
23 DERS.—The chief judge shall prescribe proce-
24 dures under which this paragraph shall be ap-
25 plied in any case in which the chief judge re-

1 ceives 2 or more orders or decrees described in
2 subparagraph (A).

3 “(3) *DEFINITION.*—For purposes of this sub-
4 section, the term ‘lump-sum credit’ means the
5 unrefunded amount consisting of—

6 “(A) retirement deductions made under this
7 section from the salary of a magistrate judge of
8 the Tax Court,

9 “(B) amounts deposited under subsection
10 (k) by a magistrate judge of the Tax Court cov-
11 ering earlier service, and

12 “(C) interest on the deductions and deposits
13 which, for any calendar year, shall be equal to
14 the overall average yield to the Tax Court Judi-
15 cial Officers’ Retirement Fund during the pre-
16 ceding fiscal year from all obligations purchased
17 by the Secretary during such fiscal year under
18 subsection (o); but does not include interest—

19 “(i) if the service covered thereby ag-
20 gregates 1 year or less, or

21 “(ii) for the fractional part of a month
22 in the total service.

23 “(o) *TAX COURT JUDICIAL OFFICERS’ RETIREMENT*
24 *FUND.*—

1 “(1) *ESTABLISHMENT.*—*There is established in*
 2 *the Treasury a fund which shall be known as the ‘Tax*
 3 *Court Judicial Officers’ Retirement Fund’.* *Amounts*
 4 *in the Fund are authorized to be appropriated for the*
 5 *payment of annuities, refunds, and other payments*
 6 *under this section.*

7 “(2) *INVESTMENT OF FUND.*—*The Secretary*
 8 *shall invest, in interest bearing securities of the*
 9 *United States, such currently available portions of the*
 10 *Tax Court Judicial Officers’ Retirement Fund as are*
 11 *not immediately required for payments from the*
 12 *Fund. The income derived from these investments con-*
 13 *stitutes a part of the Fund.*

14 “(3) *UNFUNDED LIABILITY.*—

15 “(A) *IN GENERAL.*—*There are authorized to*
 16 *be appropriated to the Tax Court Judicial Offi-*
 17 *cers’ Retirement Fund amounts required to re-*
 18 *duce to zero the unfunded liability of the Fund.*

19 “(B) *UNFUNDED LIABILITY.*—*For purposes*
 20 *of subparagraph (A), the term ‘unfunded liabil-*
 21 *ity’ means the estimated excess, determined on*
 22 *an annual basis in accordance with the provi-*
 23 *sions of section 9503 of title 31, United States*
 24 *Code, of the present value of all benefits payable*

1 *from the Tax Court Judicial Officers' Retirement*
 2 *Fund over the sum of—*

3 “(i) *the present value of deductions to*
 4 *be withheld under this section from the fu-*
 5 *ture basic pay of magistrate judges of the*
 6 *Tax Court, plus*

7 “(ii) *the balance in the Fund as of the*
 8 *date the unfunded liability is determined.*

9 “(p) *PARTICIPATION IN THRIFT SAVINGS PLAN.—*

10 “(1) *ELECTION TO CONTRIBUTE.—*

11 “(A) *IN GENERAL.—A magistrate judge of*
 12 *the Tax Court who elects to receive an annuity*
 13 *under this section or under section 321 of the*
 14 *Tax Administration Good Government Act may*
 15 *elect to contribute an amount of such individ-*
 16 *ual's basic pay to the Thrift Savings Fund estab-*
 17 *lished by section 8437 of title 5, United States*
 18 *Code.*

19 “(B) *PERIOD OF ELECTION.—An election*
 20 *may be made under this paragraph only during*
 21 *a period provided under section 8432(b) of title*
 22 *5, United States Code, for individuals subject to*
 23 *chapter 84 of such title.*

24 “(2) *APPLICABILITY OF TITLE 5 PROVISIONS.—*

25 *Except as otherwise provided in this subsection, the*

1 *provisions of subchapters III and VII of chapter 84*
 2 *of title 5, United States Code, shall apply with re-*
 3 *spect to a magistrate judge who makes an election*
 4 *under paragraph (1).*

5 “(3) *SPECIAL RULES.*—

6 “(A) *AMOUNT CONTRIBUTED.*—*The amount*
 7 *contributed by a magistrate judge to the Thrift*
 8 *Savings Fund in any pay period shall not ex-*
 9 *ceed the maximum percentage of such judge’s*
 10 *basic pay for such pay period as allowable under*
 11 *section 8440f of title 5, United States Code.*

12 “(B) *CONTRIBUTIONS FOR BENEFIT OF*
 13 *JUDGE.*—*No contributions may be made for the*
 14 *benefit of a magistrate judge under section*
 15 *8432(c) of title 5, United States Code.*

16 “(C) *APPLICABILITY OF SECTION 8433(b) OF*
 17 *TITLE 5.*—*Section 8433(b) of title 5, United*
 18 *States Code, applies with respect to a magistrate*
 19 *judge who makes an election under paragraph*
 20 *(1) and—*

21 “(i) *who retires entitled to an imme-*
 22 *diate annuity under this section (including*
 23 *a disability annuity under subsection (d) of*
 24 *this section) or section 321 of the Tax Ad-*
 25 *ministration Good Government Act,*

1 “(ii) *who retires before attaining age*
 2 *65 but is entitled, upon attaining age 65, to*
 3 *an annuity under this section or section*
 4 *321 of the Tax Administration Good Gov-*
 5 *ernment Act, or*

6 “(iii) *who retires before becoming enti-*
 7 *tled to an immediate annuity, or an annu-*
 8 *ity upon attaining age 65, under this sec-*
 9 *tion or section 321 of the Tax Administra-*
 10 *tion Good Government Act.*

11 “(D) *SEPARATION FROM SERVICE.—With*
 12 *respect to a magistrate judge to whom this sub-*
 13 *section applies, retirement under this section or*
 14 *section 321 of the Tax Administration Good*
 15 *Government Act is a separation from service for*
 16 *purposes of subchapters III and VII of chapter*
 17 *84 of title 5, United States Code.*

18 “(4) *DEFINITIONS.—For purposes of this sub-*
 19 *section, the terms ‘retirement’ and ‘retire’ include re-*
 20 *moval from office under section 7443A(a)(2) on the*
 21 *sole ground of mental or physical disability.*

22 “(5) *OFFSET.—In the case of a magistrate judge*
 23 *who receives a distribution from the Thrift Savings*
 24 *Fund and who later receives an annuity under this*
 25 *section, that annuity shall be offset by an amount*

1 equal to the amount which represents the Govern-
 2 ment's contribution to that person's Thrift Savings
 3 Account, without regard to earnings attributable to
 4 that amount. Where such an offset would exceed 50
 5 percent of the annuity to be received in the first year,
 6 the offset may be divided equally over the first 2 years
 7 in which that person receives the annuity.

8 “(6) *EXCEPTION.*—Notwithstanding clauses (i)
 9 and (ii) of paragraph (3)(C), if any magistrate judge
 10 retires under circumstances making such magistrate
 11 judge eligible to make an election under subsection (b)
 12 of section 8433 of title 5, United States Code, and
 13 such magistrate judge's nonforfeitable account balance
 14 is less than an amount that the Executive Director of
 15 the Office of Personnel Management prescribes by reg-
 16 ulation, the Executive Director shall pay the non-
 17 forfeitable account balance to the participant in a
 18 single payment.”.

19 (b) *CONFORMING AMENDMENT.*—The table of section
 20 for part I of subchapter C of chapter 76 is amended by
 21 inserting after the item relating to section 7443A the fol-
 22 lowing new item:

“Sec. 7443B. *Retirement for magistrate judges of the Tax Court.*”.

1 **SEC. 321. INCUMBENT MAGISTRATE JUDGES OF THE TAX**
 2 **COURT.**

3 (a) *RETIREMENT ANNUITY UNDER TITLE 5 AND SEC-*
 4 *TION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—*
 5 *A magistrate judge of the United States Tax Court in active*
 6 *service on the date of the enactment of this Act shall, subject*
 7 *to subsection (b), be entitled, in lieu of the annuity other-*
 8 *wise provided under the amendments made by this title,*
 9 *to—*

10 (1) *an annuity under subchapter III of chapter*
 11 *83, or under chapter 84 (except for subchapters III*
 12 *and VII), of title 5, United States Code, as the case*
 13 *may be, for creditable service before the date on which*
 14 *service would begin to be credited for purposes of*
 15 *paragraph (2), and*

16 (2) *an annuity calculated under subsection (b)*
 17 *or (c) and subsection (g) of section 7443B of the In-*
 18 *ternal Revenue Code of 1986, as added by this Act,*
 19 *for any service as a magistrate judge of the United*
 20 *States Tax Court or special trial judge of the United*
 21 *States Tax Court but only with respect to service as*
 22 *such a magistrate judge or special trial judge after a*
 23 *date not earlier than 9½ years prior to the date of*
 24 *the enactment of this Act (as specified in the election*
 25 *pursuant to subsection (b)) for which deductions and*
 26 *deposits are made under subsections (j) and (k) of*

1 *such section 7443B, as applicable, without regard to*
 2 *the minimum number of years of service as such a*
 3 *magistrate judge of the United States Tax Court, ex-*
 4 *cept that—*

5 *(A) in the case of a magistrate judge who*
 6 *retired with less than 8 years of service, the an-*
 7 *nuity under subsection (c) of such section 7443B*
 8 *shall be equal to that proportion of the salary*
 9 *being received at the time the magistrate judge*
 10 *leaves office which the years of service bears to*
 11 *14, subject to a reduction in accordance with*
 12 *subsection (c) of such section 7443B if the mag-*
 13 *istrate judge is under age 65 at the time he or*
 14 *she leaves office, and*

15 *(B) the aggregate amount of the annuity*
 16 *initially payable on retirement under this sub-*
 17 *section may not exceed the rate of pay for the*
 18 *magistrate judge which is in effect on the day be-*
 19 *fore the retirement becomes effective.*

20 *(b) FILING OF NOTICE OF ELECTION.—A magistrate*
 21 *judge of the United States Tax Court shall be entitled to*
 22 *an annuity under this section only if the magistrate judge*
 23 *files a notice of that election with the chief judge of the*
 24 *United States Tax Court specifying the date on which serv-*
 25 *ice would begin to be credited under section 7443B of the*

1 *Internal Revenue Code of 1986, as added by this Act, in*
 2 *lieu of chapter 83 or chapter 84 of title 5, United States*
 3 *Code. Such notice shall be filed in accordance with such*
 4 *procedures as the chief judge of the United States Tax Court*
 5 *shall prescribe.*

6 (c) *LUMP-SUM CREDIT UNDER TITLE 5.*—A mag-
 7 *istrate judge of the United States Tax Court who makes*
 8 *an election under subsection (b) shall be entitled to a lump-*
 9 *sum credit under section 8342 or 8424 of title 5, United*
 10 *States Code, as the case may be, for any service which is*
 11 *covered under section 7443B of the Internal Revenue Code*
 12 *of 1986, as added by this Act, pursuant to that election,*
 13 *and with respect to which any contributions were made by*
 14 *the magistrate judge under the applicable provisions of title*
 15 *5, United States Code.*

16 (d) *RECALL.*—With respect to any magistrate judge of
 17 *the United States Tax Court receiving an annuity under*
 18 *this section who is recalled to serve under section 7443C*
 19 *of the Internal Revenue Code of 1986, as added by this*
 20 *Act—*

21 (1) *the amount of compensation which such re-*
 22 *called magistrate judge receives under such section*
 23 *7443C shall be calculated on the basis of the annuity*
 24 *received under this section, and*

1 (2) *such recalled magistrate judge of the United*
 2 *States Tax Court may serve as a reemployed annu-*
 3 *itant to the extent otherwise permitted under title 5,*
 4 *United States Code.*

5 *Section 7443B(m)(4) of the Internal Revenue Code of 1986,*
 6 *as added by this Act, shall not apply with respect to service*
 7 *as a reemployed annuitant described in paragraph (2).*

8 **SEC. 322. PROVISIONS FOR RECALL.**

9 (a) *IN GENERAL.*—*Part I of subchapter C of chapter*
 10 *76, as amended by this Act, is amended by inserting after*
 11 *section 7443B the following new section:*

12 **“SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX**
 13 **COURT.**

14 “(a) *RECALLING OF RETIRED MAGISTRATE*
 15 *JUDGES.*—*Any individual who has retired pursuant to sec-*
 16 *tion 7443B or the applicable provisions of title 5, United*
 17 *States Code, upon reaching the age and service require-*
 18 *ments established therein, may at or after retirement be*
 19 *called upon by the chief judge of the Tax Court to perform*
 20 *such judicial duties with the Tax Court as may be requested*
 21 *of such individual for any period or periods specified by*
 22 *the chief judge; except that in the case of any such*
 23 *individual—*

1 “(1) the aggregate of such periods in any 1 cal-
2 endar year shall not (without such individual’s con-
3 sent) exceed 90 calendar days, and

4 “(2) such individual shall be relieved of per-
5 forming such duties during any period in which ill-
6 ness or disability precludes the performance of such
7 duties.

8 Any act, or failure to act, by an individual performing ju-
9 dicial duties pursuant to this subsection shall have the same
10 force and effect as if it were the act (or failure to act) of
11 a magistrate judge of the Tax Court.

12 “(b) COMPENSATION.—For the year in which a period
13 of recall occurs, the magistrate judge shall receive, in addi-
14 tion to the annuity provided under the provisions of section
15 7443B or under the applicable provisions of title 5, United
16 States Code, an amount equal to the difference between that
17 annuity and the current salary of the office to which the
18 magistrate judge is recalled. The annuity of the magistrate
19 judge who completes that period of service, who is not re-
20 called in a subsequent year, and who retired under section
21 7443B, shall be equal to the salary in effect at the end of
22 the year in which the period of recall occurred for the office
23 from which such individual retired.

1 “(c) *RULEMAKING AUTHORITY.*—*The provisions of this*
 2 *section may be implemented under such rules as may be*
 3 *promulgated by the Tax Court.*”.

4 (b) *CONFORMING AMENDMENT.*—*The table of sections*
 5 *for part I of subchapter C of chapter 76, as amended by*
 6 *this Act, is amended by inserting after the item relating*
 7 *to section 7443B the following new item:*

“Sec. 7443C. Recall of magistrate judges of the Tax Court.”.

8 **SEC. 323. EFFECTIVE DATE.**

9 *Except as otherwise provided, the amendments made*
 10 *by this subtitle shall take effect on the date of the enactment*
 11 *of this Act.*

12 **TITLE IV—CONFIDENTIALITY**
 13 **AND DISCLOSURE**

14 **SEC. 401. CLARIFICATION OF DEFINITION OF CHURCH TAX**
 15 **INQUIRY.**

16 (a) *IN GENERAL.*—*Subsection (i) of section 7611 (re-*
 17 *lating to section not to apply to criminal investigations,*
 18 *etc.) is amended by striking “or” at the end of paragraph*
 19 *(4), by striking the period at the end of paragraph (5) and*
 20 *inserting “, or”, and by inserting after paragraph (5) the*
 21 *following:*

22 “(6) *information provided by the Secretary re-*
 23 *lated to the standards for exemption from tax under*
 24 *this title and the requirements under this title relat-*
 25 *ing to unrelated business taxable income.*”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the date of the enactment of this*
 3 *Act.*

4 **SEC. 402. COLLECTION ACTIVITIES WITH RESPECT TO**
 5 **JOINT RETURN DISCLOSABLE TO EITHER**
 6 **SPOUSE BASED ON ORAL REQUEST.**

7 (a) *IN GENERAL.*—*Paragraph (8) of section 6103(e)*
 8 *(relating to disclosure of collection activities with respect*
 9 *to joint return) is amended by striking “in writing” the*
 10 *first place it appears.*

11 (b) *ELIMINATION OF REPORTING REQUIREMENT.*—
 12 *Section 7803(d)(1) (relating to annual reporting), as*
 13 *amended by this Act, is amended by striking subparagraph*
 14 *(B) and by redesignating subparagraphs (C), (D), (E), (F),*
 15 *(G), and (H) as subparagraphs (B), (C), (D), (E), (F), and*
 16 *(G), respectively.*

17 (c) *EFFECTIVE DATES.*—

18 (1) *SUBSECTION (a).*—*The amendment made by*
 19 *subsection (a) shall apply to requests made after the*
 20 *date of the enactment of this Act.*

21 (2) *SUBSECTION (b).*—*The amendments made by*
 22 *subsection (b) shall apply to reports made after the*
 23 *date of the enactment of this Act.*

1 **SEC. 403. TAXPAYER REPRESENTATIVES NOT SUBJECT TO**
 2 **EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.**
 3

4 (a) *IN GENERAL.*—Paragraph (1) of section 6103(h)
 5 (relating to disclosure to certain Federal officers and em-
 6 ployees for purposes of tax administration, etc.) is
 7 amended—

8 (1) by striking “*TREASURY.*—Returns and re-
 9 turn information” and inserting “*TREASURY.*—

10 “(A) *IN GENERAL.*—Returns and return in-
 11 formation”, and

12 (2) by adding at the end the following new sub-
 13 paragraph:

14 “(B) *TAXPAYER REPRESENTATIVES.*—Not-
 15 withstanding subparagraph (A), the return or
 16 return information of the representative of a tax-
 17 payer whose return is being examined by an offi-
 18 cer or employee of the Department of the Treas-
 19 ury shall not be open to inspection by such offi-
 20 cer or employee on the sole basis of the represent-
 21 ative’s relationship to the taxpayer unless a su-
 22 pervisor of such officer or employee has approved
 23 the inspection of the return or return informa-
 24 tion of such representative on a basis other than
 25 by reason of such relationship.”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect after the date of the enactment of*
 3 *this Act.*

4 **SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER**
 5 **IDENTIFICATION INFORMATION WITH RE-**
 6 **SPECT TO DISCLOSURE OF ACCEPTED OF-**
 7 **FERS-IN-COMPROMISE.**

8 (a) *IN GENERAL.*—*Paragraph (1) of section 6103(k)*
 9 *(relating to disclosure of certain returns and return infor-*
 10 *mation for tax administrative purposes) is amended by in-*
 11 *serting “(other than the taxpayer’s TIN)” after “Return in-*
 12 *formation”.*

13 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 14 *section shall apply to disclosures made after the date of the*
 15 *enactment of this Act.*

16 **SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDEN-**
 17 **TIALITY SAFEGUARDS.**

18 (a) *IN GENERAL.*—*Section 6103(p) (relating to State*
 19 *law requirements) is amended by adding at the end the fol-*
 20 *lowing new paragraph:*

21 “(9) *DISCLOSURE TO CONTRACTORS AND OTHER*
 22 *AGENTS.*—*Notwithstanding any other provision of*
 23 *this section, no return or return information shall be*
 24 *disclosed to any contractor or other agent of a Fed-*

1 *eral, State, or local agency unless such agency, to the*
2 *satisfaction of the Secretary—*

3 *“(A) has requirements in effect which re-*
4 *quire each such contractor or other agent which*
5 *would have access to returns or return informa-*
6 *tion to provide safeguards (within the meaning*
7 *of paragraph (4)) to protect the confidentiality*
8 *of such returns or return information,*

9 *“(B) agrees to conduct an on-site review*
10 *every 3 years (mid-point review in the case of*
11 *contracts or agreements of less than 1 year in*
12 *duration) of each contractor or other agent to de-*
13 *termine compliance with such requirements,*

14 *“(C) submits the findings of the most recent*
15 *review conducted under subparagraph (B) to the*
16 *Secretary as part of the report required by para-*
17 *graph (4)(E), and*

18 *“(D) certifies to the Secretary for the most*
19 *recent annual period that such contractor or*
20 *other agent is in compliance with all such re-*
21 *quirements.*

22 *The certification required by subparagraph (D) shall*
23 *include the name and address of each contractor and*
24 *other agent, a description of the contract or agreement*
25 *with such contractor or other agent, and the duration*

1 of such contract or agreement. The requirements of
 2 this paragraph shall not apply to disclosures pursu-
 3 ant to subsection (n) for purposes of Federal tax ad-
 4 ministration.”.

5 (b) *CONFORMING AMENDMENT.*—Subparagraph (B) of
 6 section 6103(p)(8) is amended by inserting “or paragraph
 7 (9)” after “subparagraph (A)”.

8 (c) *EFFECTIVE DATE.*—

9 (1) *IN GENERAL.*—The amendments made by
 10 this section shall apply to disclosures made after the
 11 date of the enactment of this Act.

12 (2) *CERTIFICATIONS.*—The first certification
 13 under section 6103(p)(9)(D) of the Internal Revenue
 14 Code of 1986, as added by subsection (a), shall be
 15 made with respect to the portion of calendar year
 16 2004 following the date of the enactment of this Act.

17 **SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND**
 18 **CONSENTS TO DISCLOSURE.**

19 (a) *IN GENERAL.*—Subsection (c) of section 6103 (re-
 20 lating to disclosure of returns and return information to
 21 designee of taxpayer) is amended—

22 (1) by striking “*TAXPAYER.*—The Secretary”
 23 and inserting “*TAXPAYER.*—

24 “(1) *IN GENERAL.*—The Secretary”, and

1 (2) *by adding at the end the following new para-*
 2 *graphs:*

3 “(2) *RESTRICTIONS ON PERSONS OBTAINING IN-*
 4 *FORMATION.—The return of any taxpayer, or return*
 5 *information with respect to such taxpayer, disclosed*
 6 *to a person or persons under paragraph (1) for a*
 7 *purpose specified in writing, electronically, or orally*
 8 *may be disclosed or used by such person or persons*
 9 *only for the purpose of, and to the extent necessary*
 10 *in, accomplishing the purpose for disclosure specified*
 11 *and shall not be disclosed or used for any other pur-*
 12 *pose.*

13 “(3) *REQUIREMENTS FOR FORM PRESCRIBED BY*
 14 *SECRETARY.—For purposes of this subsection, the Sec-*
 15 *retary shall prescribe a form for written requests and*
 16 *consents which shall—*

17 “(A) *contain a warning, prominently dis-*
 18 *played, informing the taxpayer that the form*
 19 *should not be signed unless it is completed,*

20 “(B) *state that if the taxpayer believes there*
 21 *is an attempt to coerce him to sign an incom-*
 22 *plete or blank form, the taxpayer should report*
 23 *the matter to the Treasury Inspector General for*
 24 *Tax Administration, and*

1 “(C) contain the address and telephone
2 number of the Treasury Inspector General for
3 Tax Administration.

4 “(4) CROSS REFERENCE.—

**“For provision providing for civil damages for vio-
lation of paragraph (2), see section 7431(i).”.**

5 (b) CIVIL DAMAGES.—Section 7431 (relating to civil
6 damages for unauthorized inspection or disclosure of re-
7 turns and return information) is amended by adding at
8 the end the following new subsection:

9 “(i) DISCLOSURE OR USE OF RETURNS AND RETURN
10 INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—
11 Disclosure or use of returns or return information obtained
12 under section 6103(c) other than for the purpose of, and
13 to the extent necessary in, accomplishing the purpose for
14 disclosure specified in writing, electronically, or orally,
15 shall be treated as a violation of section 6103(a).”.

16 (c) REPORT.—Not later than 18 months after the date
17 of the enactment of this Act, the Secretary of the Treasury
18 shall submit a report to the Congress on compliance with
19 the designation and certification requirements applicable to
20 requests for or consent to disclosure of returns and return
21 information under section 6103(c) of the Internal Revenue
22 Code of 1986, as amended by subsection (a). Such report
23 shall—

1 (1) *evaluate (on the basis of random sampling)*
 2 *whether—*

3 (A) *the amendment made by subsection (a)*
 4 *is achieving the purposes of this section;*

5 (B) *requesters and submitters for such dis-*
 6 *closure are continuing to evade the purposes of*
 7 *this section and, if so, how; and*

8 (C) *the sanctions for violations of such re-*
 9 *quirements are adequate; and*

10 (2) *include such recommendations that the Sec-*
 11 *retary of the Treasury considers necessary or appro-*
 12 *priate to better achieve the purposes of this section.*

13 (d) *SUNSET OF EXISTING CONSENTS.—Notwith-*
 14 *standing any other provision of law, any request for or con-*
 15 *sent to disclose any return or return information under sec-*
 16 *tion 6103(c) of the Internal Revenue Code of 1986 made*
 17 *before the date of the enactment of this Act shall remain*
 18 *in effect until the earlier of the date such request or consent*
 19 *is otherwise terminated or the date which is 3 years after*
 20 *such date of enactment.*

21 (e) *EFFECTIVE DATE.—The amendments made by this*
 22 *section shall apply to requests and consents made after the*
 23 *date which is 3 months after the date of the enactment of*
 24 *this Act.*

1 **SEC. 407. CIVIL DAMAGES FOR UNAUTHORIZED DISCLO-**
2 **SURE OR INSPECTION.**

3 (a) *NOTICE TO TAXPAYER.*—Subsection (e) of section
4 7431 (relating to notification of unlawful inspection and
5 disclosure) is amended by adding at the end the following:
6 “The Secretary shall also notify such taxpayer if the Inter-
7 nal Revenue Service or, upon notice to the Secretary by
8 a Federal or State agency, if such Federal or State agency,
9 proposes an administrative determination as to discipli-
10 nary or adverse action against an employee arising from
11 the employee’s unauthorized inspection or disclosure of the
12 taxpayer’s return or return information. The notice de-
13 scribed in this subsection shall include the date of the in-
14 spection or disclosure and the rights of the taxpayer under
15 such administrative determination.”.

16 (b) *EXHAUSTION OF ADMINISTRATIVE REMEDIES RE-*
17 *QUIRED.*—Section 7431, as amended by this Act, is amend-
18 ed by adding at the end the following new subsection:

19 “(j) *EXHAUSTION OF ADMINISTRATIVE REMEDIES RE-*
20 *QUIRED.*—A judgment for damages shall not be awarded
21 under subsection (c) unless the court determines that the
22 plaintiff has exhausted the administrative remedies avail-
23 able to such plaintiff.”.

24 (c) *PAYMENT AUTHORITY CLARIFIED.*—

1 (1) *IN GENERAL.*—Section 7431, as amended by
 2 subsection (b), is amended by adding at the end the
 3 following new subsection:

4 “(k) *PAYMENT AUTHORITY.*—Claims pursuant to this
 5 section shall be payable out of funds appropriated under
 6 section 1304 of title 31, United States Code.”.

7 (2) *ANNUAL REPORTS OF PAYMENTS.*—The Sec-
 8 retary of the Treasury shall annually report to the
 9 Committee of Finance of the Senate and the Com-
 10 mittee on Ways and Means of the House of Represent-
 11 atives regarding payments made from the United
 12 States Judgment Fund under section 7431(k) of the
 13 Internal Revenue Code of 1986.

14 (d) *BURDEN OF PROOF FOR GOOD FAITH EXCEPTION*
 15 *RESTS WITH INDIVIDUAL MAKING INSPECTION OR DISCLO-*
 16 *SURE.*—Section 7431(b) (relating to exceptions) is amended
 17 by adding at the end the following new flush sentence:

18 “In any proceeding involving the issue of the existence of
 19 good faith, the burden of proof with respect to such issue
 20 shall be on the individual who made the inspection or dis-
 21 closure.”.

22 (e) *REPORTS.*—Subsection (p) of section 6103 (relat-
 23 ing to procedure and recordkeeping), as amended by this
 24 Act, is amended by adding at the end the following new
 25 paragraph:

1 “(10) *REPORT ON WILLFUL UNAUTHORIZED DIS-*
 2 *CLOSURE AND INSPECTION.*—As part of the report re-
 3 *quired by paragraph (3)(C) for each calendar year,*
 4 *the Secretary shall furnish information regarding the*
 5 *willful unauthorized disclosure and inspection of re-*
 6 *turns and return information, including the number,*
 7 *status, and results of—*

8 “(A) *administrative investigations,*

9 “(B) *civil lawsuits brought under section*
 10 7431 *(including the amounts for which such law-*
 11 *suits were settled and the amounts of damages*
 12 *awarded), and*

13 “(C) *criminal prosecutions.*”.

14 (f) *EFFECTIVE DATES.*—

15 (1) *NOTICE.*—The amendment made by sub-
 16 *section (a) shall apply to determinations made after*
 17 *the date which is 180 days after the date of the enact-*
 18 *ment of this Act.*

19 (2) *EXHAUSTION OF REMEDIES AND BURDEN OF*
 20 *PROOF.*—The amendments made by subsections (b)
 21 *and (d) shall apply to inspections and disclosures oc-*
 22 *curring on and after the date which is 180 days after*
 23 *the date of the enactment of this Act.*

24 (3) *PAYMENT AUTHORITY.*—The amendment
 25 *made by subsection (c)(1) shall take effect on the date*

1 *which is 180 days after the date of the enactment of*
 2 *this Act.*

3 (4) *REPORTS.*—*The amendment made by sub-*
 4 *section (e) shall apply to calendar years ending after*
 5 *the date which is 180 days after the date of the enact-*
 6 *ment of this Act.*

7 **SEC. 408. EXPANSION OF DISCLOSURE IN EMERGENCY CIR-**
 8 **CUMSTANCES.**

9 (a) *IN GENERAL.*—*Section 6103(i)(3)(B)(i) (relating*
 10 *to danger of death or physical injury) is amended by strik-*
 11 *ing “or State law enforcement agency” and inserting “,*
 12 *State, or local law enforcement agency”.*

13 (b) *CONFORMING AMENDMENTS.*—*Section 6103(p)(4)*
 14 *is amended—*

15 (1) *by striking “(i)(3)(B)(i) or (7)(A)(ii)” and*
 16 *inserting “(i)(7)(A)(ii)”, and*

17 (2) *by striking “, (i)(3)(B)(i),”.*

18 (c) *EFFECTIVE DATE.*—*The amendment made by this*
 19 *section shall take effect on the date of the enactment of this*
 20 *Act.*

21 **SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX**
 22 **REFUND PURPOSES.**

23 (a) *IN GENERAL.*—*Section 6103(m)(1) (relating to tax*
 24 *refunds) is amended by striking “taxpayer identity infor-*
 25 *mation to the press and other media” and by inserting “a*

1 *person’s name and the city, State, and zip code of the per-*
 2 *son’s mailing address to the press, other media, and through*
 3 *any other means of mass communication,”.*

4 *(b) EFFECTIVE DATE.—The amendment made by this*
 5 *section shall take effect on the date of the enactment of this*
 6 *Act.*

7 **SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED**
 8 **ACTIONS RELATED TO SECTION 501(c) ORGA-**
 9 **NIZATIONS.**

10 *(a) IN GENERAL.—Subsection (c) of section 6104 is*
 11 *amended by striking paragraph (2) and inserting the fol-*
 12 *lowing new paragraphs:*

13 *“(2) DISCLOSURE OF PROPOSED ACTIONS RE-*
 14 *LATED TO CHARITABLE ORGANIZATIONS.—*

15 *“(A) SPECIFIC NOTIFICATIONS.—In the case*
 16 *of an organization to which paragraph (1) ap-*
 17 *plies, the Secretary may disclose to the appro-*
 18 *priate State officer—*

19 *“(i) a notice of proposed refusal to rec-*
 20 *ognize such organization as an organization*
 21 *described in section 501(c)(3) or a notice of*
 22 *proposed revocation of such organization’s*
 23 *recognition as an organization exempt from*
 24 *taxation,*

1 “(ii) the issuance of a letter of pro-
 2 posed deficiency of tax imposed under sec-
 3 tion 507 or chapter 41 or 42, and

4 “(iii) the names, addresses, and tax-
 5 payer identification numbers of organiza-
 6 tions which have applied for recognition as
 7 organizations described in section 501(c)(3).

8 “(B) *ADDITIONAL DISCLOSURES.*—Returns
 9 and return information of organizations with re-
 10 spect to which information is disclosed under
 11 subparagraph (A) may be made available for in-
 12 spection by or disclosed to an appropriate State
 13 officer.

14 “(C) *PROCEDURES FOR DISCLOSURE.*—In-
 15 formation may be inspected or disclosed under
 16 subparagraph (A) or (B) only—

17 “(i) upon written request by an appro-
 18 priate State officer, and

19 “(ii) for the purpose of, and only to the
 20 extent necessary in, the administration of
 21 State laws regulating such organizations.

22 Such information may only be inspected by or
 23 disclosed to representatives of the appropriate
 24 State officer designated as the individuals who
 25 are to inspect or to receive the returns or return

1 *information under this paragraph on behalf of*
 2 *such officer. Such representatives shall not in-*
 3 *clude any contractor or agent.*

4 *“(D) DISCLOSURES OTHER THAN BY RE-*
 5 *QUEST.—The Secretary may make available for*
 6 *inspection or disclose returns and return infor-*
 7 *mation of an organization to which paragraph*
 8 *(1) applies to an appropriate State officer of*
 9 *any State if the Secretary determines that such*
 10 *inspection or disclosure may facilitate the resolu-*
 11 *tion of Federal or State issues relating to the*
 12 *tax-exempt status of such organization.*

13 *“(3) DISCLOSURE WITH RESPECT TO CERTAIN*
 14 *OTHER EXEMPT ORGANIZATIONS.—Upon written re-*
 15 *quest by an appropriate State officer, the Secretary*
 16 *may make available for inspection or disclosure re-*
 17 *turns and return information of an organization de-*
 18 *scribed in paragraph (2), (4), (6), (7), (8), (10), or*
 19 *(13) of section 501(c) for the purpose of, and to the*
 20 *extent necessary in, the administration of State laws*
 21 *regulating the solicitation or administration of the*
 22 *charitable funds or charitable assets of such organiza-*
 23 *tions. Such information may be inspected only by or*
 24 *disclosed only to representatives of the appropriate*
 25 *State officer designated as the individuals who are to*

1 *inspect or to receive the returns or return information*
 2 *under this paragraph on behalf of such officer. Such*
 3 *representatives shall not include any contractor or*
 4 *agent.*

5 “(4) *USE IN CIVIL JUDICIAL AND ADMINISTRA-*
 6 *TIVE PROCEEDINGS.—Returns and return informa-*
 7 *tion disclosed pursuant to this subsection may be dis-*
 8 *closed in civil administrative and civil judicial pro-*
 9 *ceedings pertaining to the enforcement of State laws*
 10 *regulating such organizations in a manner prescribed*
 11 *by the Secretary similar to that for tax administra-*
 12 *tion proceedings under section 6103(h)(4).*

13 “(5) *NO DISCLOSURE IF IMPAIRMENT.—Returns*
 14 *and return information shall not be disclosed under*
 15 *this subsection, or in any proceeding described in*
 16 *paragraph (4), to the extent that the Secretary deter-*
 17 *mines that such disclosure would seriously impair*
 18 *Federal tax administration.*

19 “(6) *DEFINITIONS.—For purposes of this*
 20 *subsection—*

21 “(A) *RETURN AND RETURN INFORMA-*
 22 *TION.—The terms ‘return’ and ‘return informa-*
 23 *tion’ have the respective meanings given to such*
 24 *terms by section 6103(b).*

1 “(B) *APPROPRIATE STATE OFFICER.*—*The*
 2 *term ‘appropriate State officer’ means—*

3 *“(i) the State attorney general,*

4 *“(ii) in the case of an organization to*
 5 *which paragraph (1) applies, any other*
 6 *State official charged with overseeing orga-*
 7 *nizations of the type described in section*
 8 *501(c)(3), and*

9 *“(iii) in the case of an organization to*
 10 *which paragraph (3) applies, the head of an*
 11 *agency designated by the State attorney*
 12 *general as having primary responsibility*
 13 *for overseeing the solicitation of funds for*
 14 *charitable purposes.”.*

15 (b) *CONFORMING AMENDMENTS.*—

16 (1) *Subsection (a) of section 6103 is amended—*

17 (A) *by inserting “or any appropriate State*
 18 *officer who has or had access to returns or return*
 19 *information under section 6104(c)” after “this*
 20 *section” in paragraph (2), and*

21 (B) *by striking “or subsection (n)” in para-*
 22 *graph (3) and inserting “subsection (n), or sec-*
 23 *tion 6104(c)”.*

1 (2) Subparagraph (A) of section 6103(p)(3) is
 2 amended by inserting “and section 6104(c)” after
 3 “section” in the first sentence.

4 (3) Paragraph (4) of section 6103(p), as amend-
 5 ed by section 202(b)(2)(B) of the Trade Act of 2002
 6 (Public Law 107–210; 116 Stat. 961), is amended by
 7 striking “or (17)” after “any other person described
 8 in subsection (l)(16)” each place it appears and in-
 9 serting “or (18) or any appropriate State officer (as
 10 defined in section 6104(c))”.

11 (4) The heading for paragraph (1) of section
 12 6104(c) is amended by inserting “FOR CHARITABLE
 13 ORGANIZATIONS”.

14 (5) Paragraph (2) of section 7213(a) is amended
 15 by inserting “or under section 6104(c)” after “6103”.

16 (6) Paragraph (2) of section 7213A(a) is amend-
 17 ed by inserting “or 6104(c)” after “6103”.

18 (7) Paragraph (2) of section 7431(a) is amended
 19 by inserting “(including any disclosure in violation
 20 of section 6104(c))” after “6103”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
 22 section shall take effect on the date of the enactment of this
 23 Act but shall not apply to requests made before such date.

1 **SEC. 411. TREATMENT OF PUBLIC RECORDS.**

2 (a) *IN GENERAL.*—Section 6103(b) (relating to defini-
3 tions) is amended by adding at the end the following new
4 paragraph:

5 “(12) *TREATMENT OF PUBLIC RECORDS.*—Re-
6 turns and return information shall not be subject to
7 subsection (a) if disclosed—

8 “(A) in the course of any judicial or admin-
9 istrative proceeding or pursuant to tax adminis-
10 tration activities, and

11 “(B) properly made part of the public
12 record.”.

13 (b) *EFFECTIVE DATE.*—The amendment made by this
14 section shall take effect before, on, and after the date of the
15 enactment of this Act.

16 **SEC. 412. EMPLOYEE IDENTITY DISCLOSURES.**

17 (a) *IN GENERAL.*—Section 6103 (confidentiality and
18 disclosure of returns and return information) is amended
19 by redesignating subsection (q) as subsection (r) and by in-
20 serting after subsection (p) the following new subsection:

21 “(q) *EMPLOYEE IDENTITY DISCLOSURES.*—Nothing in
22 this section may be construed to prohibit agents of the De-
23 partment of the Treasury from identifying themselves, their
24 organizational affiliation, and the nature of an investiga-
25 tion when contacting third parties in writing or in per-
26 son.”.

1 (b) *CONSTRUCTION.*—*The amendments made by this*
 2 *section shall not be construed to create any inference with*
 3 *respect to the interpretation of any provision of law as such*
 4 *provision was in effect on the day before the date of enact-*
 5 *ment of this Act.*

6 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 7 *section shall take effect on the date of the enactment of this*
 8 *Act.*

9 **SEC. 413. TAXPAYER IDENTIFICATION NUMBER MATCHING.**

10 (a) *IN GENERAL.*—*Section 6103(k) (relating to disclo-*
 11 *sure of certain returns and return information for tax ad-*
 12 *ministration purposes) is amended by adding at the end*
 13 *the following new paragraph:*

14 “(10) *TIN MATCHING.*—*The Secretary may dis-*
 15 *close to any person required to provide a TIN (as de-*
 16 *fined in section 7701(a)(41)) to the Secretary whether*
 17 *such information matches records maintained by the*
 18 *Secretary.”.*

19 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 20 *section shall take effect on the date of the enactment of this*
 21 *Act.*

22 **SEC. 414. FORM 8300 DISCLOSURES.**

23 (a) *IN GENERAL.*—*Section 6103(p)(4) (relating to*
 24 *safeguards) is amended by striking “(15),” both places it*
 25 *appears.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall take effect on the date of the enactment of this*
 3 *Act.*

4 **SEC. 415. DISCLOSURE TO LAW ENFORCEMENT AGENCIES**
 5 **REGARDING TERRORIST ACTIVITIES.**

6 (a) *IN GENERAL.*—*Section 6103(i)(7)(A) (relating to*
 7 *disclosure to law enforcement agencies) is amended by add-*
 8 *ing at the end the following new clause:*

9 “(v) *TAXPAYER IDENTITY.*—*For pur-*
 10 *poses of this subparagraph, a taxpayer’s*
 11 *identity shall not be treated as taxpayer re-*
 12 *turn information.”.*

13 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 14 *section shall take effect on the date of the enactment of this*
 15 *Act.*

16 **TITLE V—SIMPLIFICATION**
 17 **Subtitle A—Uniform Definition of**
 18 **Child**

19 **SEC. 501. UNIFORM DEFINITION OF CHILD, ETC.**

20 *Section 152 is amended to read as follows:*

21 **“SEC. 152. DEPENDENT DEFINED.**

22 “(a) *IN GENERAL.*—*For purposes of this subtitle, the*
 23 *term ‘dependent’ means—*

24 “(1) *a qualifying child, or*

25 “(2) *a qualifying relative.*

1 “(b) *EXCEPTIONS.*—*For purposes of this section—*

2 “(1) *DEPENDENTS INELIGIBLE.*—*If an indi-*
 3 *vidual is a dependent of a taxpayer for any taxable*
 4 *year of such taxpayer beginning in a calendar year,*
 5 *such individual shall be treated as having no depend-*
 6 *ents for any taxable year of such individual begin-*
 7 *ning in such calendar year.*

8 “(2) *MARRIED DEPENDENTS.*—*An individual*
 9 *shall not be treated as a dependent of a taxpayer*
 10 *under subsection (a) if such individual has made a*
 11 *joint return with the individual’s spouse under sec-*
 12 *tion 6013 for the taxable year beginning in the cal-*
 13 *endar year in which the taxable year of the taxpayer*
 14 *begins.*

15 “(3) *CITIZENS OR NATIONALS OF OTHER COUN-*
 16 *TRIES.*—

17 “(A) *IN GENERAL.*—*The term ‘dependent’*
 18 *does not include an individual who is not a cit-*
 19 *izen or national of the United States unless such*
 20 *individual is a resident of the United States or*
 21 *a country contiguous to the United States.*

22 “(B) *EXCEPTION FOR ADOPTED CHILD.*—
 23 *Subparagraph (A) shall not exclude any child of*
 24 *a taxpayer (within the meaning of subsection*
 25 *(f)(1)(B)) from the definition of ‘dependent’ if—*

1 “(i) *for the taxable year of the tax-*
 2 *payer, the child has the same principal*
 3 *place of abode as the taxpayer and is a*
 4 *member of the taxpayer’s household, and*

5 “(ii) *the taxpayer is a citizen or na-*
 6 *tional of the United States.*

7 “(c) *QUALIFYING CHILD.—For purposes of this*
 8 *section—*

9 “(1) *IN GENERAL.—The term ‘qualifying child’*
 10 *means, with respect to any taxpayer for any taxable*
 11 *year, an individual—*

12 “(A) *who bears a relationship to the tax-*
 13 *payer described in paragraph (2),*

14 “(B) *who has the same principal place of*
 15 *abode as the taxpayer for more than one-half of*
 16 *such taxable year,*

17 “(C) *who meets the age requirements of*
 18 *paragraph (3), and*

19 “(D) *who has not provided over one-half of*
 20 *such individual’s own support for the calendar*
 21 *year in which the taxable year of the taxpayer*
 22 *begins.*

23 “(2) *RELATIONSHIP.—For purposes of para-*
 24 *graph (1)(A), an individual bears a relationship to*

1 *the taxpayer described in this paragraph if such indi-*
 2 *vidual is—*

3 “(A) *a child of the taxpayer or a descendant*
 4 *of such a child, or*

5 “(B) *a brother, sister, stepbrother, or step-*
 6 *sister of the taxpayer or a descendant of any*
 7 *such relative.*

8 “(3) *AGE REQUIREMENTS.—*

9 “(A) *IN GENERAL.—For purposes of para-*
 10 *graph (1)(C), an individual meets the require-*
 11 *ments of this paragraph if such individual—*

12 “(i) *has not attained the age of 19 as*
 13 *of the close of the calendar year in which*
 14 *the taxable year of the taxpayer begins, or*

15 “(ii) *is a student who has not attained*
 16 *the age of 24 as of the close of such calendar*
 17 *year.*

18 “(B) *SPECIAL RULE FOR DISABLED.—In*
 19 *the case of an individual who is permanently*
 20 *and totally disabled (as defined in section*
 21 *22(e)(3)) at any time during such calendar year,*
 22 *the requirements of subparagraph (A) shall be*
 23 *treated as met with respect to such individual.*

24 “(4) *SPECIAL RULE RELATING TO 2 OR MORE*
 25 *CLAIMING QUALIFYING CHILD.—*

1 “(A) *IN GENERAL.*—*Except as provided in*
 2 *subparagraph (B) and subsection (e), if (but for*
 3 *this paragraph) an individual may be and is*
 4 *claimed as a qualifying child by 2 or more tax-*
 5 *payers for a taxable year beginning in the same*
 6 *calendar year, such individual shall be treated as*
 7 *the qualifying child of the taxpayer who is—*

8 “(i) *a parent of the individual, or*

9 “(ii) *if clause (i) does not apply, the*
 10 *taxpayer with the highest adjusted gross in-*
 11 *come for such taxable year.*

12 “(B) *MORE THAN 1 PARENT CLAIMING*
 13 *QUALIFYING CHILD.*—*If the parents claiming*
 14 *any qualifying child do not file a joint return to-*
 15 *gether, such child shall be treated as the quali-*
 16 *fying child of—*

17 “(i) *the parent with whom the child re-*
 18 *sided for the longest period of time during*
 19 *the taxable year, or*

20 “(ii) *if the child resides with both par-*
 21 *ents for the same amount of time during*
 22 *such taxable year, the parent with the high-*
 23 *est adjusted gross income.*

24 “(d) *QUALIFYING RELATIVE.*—*For purposes of this*
 25 *section—*

1 “(1) *IN GENERAL.*—*The term ‘qualifying rel-*
 2 *ative’ means, with respect to any taxpayer for any*
 3 *taxable year, an individual—*

4 “(A) *who bears a relationship to the tax-*
 5 *payer described in paragraph (2),*

6 “(B) *whose gross income for the calendar*
 7 *year in which such taxable year begins is less*
 8 *than the exemption amount (as defined in sec-*
 9 *tion 151(d)),*

10 “(C) *with respect to whom the taxpayer*
 11 *provides over one-half of the individual’s support*
 12 *for the calendar year in which such taxable year*
 13 *begins, and*

14 “(D) *who is not a qualifying child of such*
 15 *taxpayer or of any other taxpayer for any tax-*
 16 *able year beginning in the calendar year in*
 17 *which such taxable year begins.*

18 “(2) *RELATIONSHIP.*—*For purposes of para-*
 19 *graph (1)(A), an individual bears a relationship to*
 20 *the taxpayer described in this paragraph if the indi-*
 21 *vidual is any of the following with respect to the tax-*
 22 *payer:*

23 “(A) *A child or a descendant of a child.*

24 “(B) *A brother, sister, stepbrother, or step-*
 25 *sister.*

1 “(C) *The father or mother, or an ancestor of*
2 *either.*

3 “(D) *A stepfather or stepmother.*

4 “(E) *A son or daughter of a brother or sis-*
5 *ter of the taxpayer.*

6 “(F) *A brother or sister of the father or*
7 *mother of the taxpayer.*

8 “(G) *A son-in-law, daughter-in-law, father-*
9 *in-law, mother-in-law, brother-in-law, or sister-*
10 *in-law.*

11 “(H) *An individual (other than an indi-*
12 *vidual who at any time during the taxable year*
13 *was the spouse, determined without regard to*
14 *section 7703, of the taxpayer) who, for the tax-*
15 *able year of the taxpayer, has the same principal*
16 *place of abode as the taxpayer and is a member*
17 *of the taxpayer’s household.*

18 “(3) *SPECIAL RULE RELATING TO MULTIPLE*
19 *SUPPORT AGREEMENTS.—For purposes of paragraph*
20 *(1)(C), over one-half of the support of an individual*
21 *for a calendar year shall be treated as received from*
22 *the taxpayer if—*

23 “(A) *no one person contributed over one-half*
24 *of such support,*

1 “(B) over one-half of such support was re-
 2 ceived from 2 or more persons each of whom, but
 3 for the fact that any such person alone did not
 4 contribute over one-half of such support, would
 5 have been entitled to claim such individual as a
 6 dependent for a taxable year beginning in such
 7 calendar year,

8 “(C) the taxpayer contributed over 10 per-
 9 cent of such support, and

10 “(D) each person described in subparagraph
 11 (B) (other than the taxpayer) who contributed
 12 over 10 percent of such support files a written
 13 declaration (in such manner and form as the
 14 Secretary may by regulations prescribe) that
 15 such person will not claim such individual as a
 16 dependent for any taxable year beginning in
 17 such calendar year.

18 “(4) SPECIAL RULE RELATING TO INCOME OF
 19 HANDICAPPED DEPENDENTS.—

20 “(A) IN GENERAL.—For purposes of para-
 21 graph (1)(B), the gross income of an individual
 22 who is permanently and totally disabled (as de-
 23 fined in section 22(e)(3)) at any time during the
 24 taxable year shall not include income attrib-

1 *utable to services performed by the individual at*
 2 *a sheltered workshop if—*

3 “(i) *the availability of medical care at*
 4 *such workshop is the principal reason for*
 5 *the individual’s presence there, and*

6 “(ii) *the income arises solely from ac-*
 7 *tivities at such workshop which are incident*
 8 *to such medical care.*

9 “(B) *SHELTERED WORKSHOP DEFINED.—*
 10 *For purposes of subparagraph (A), the term*
 11 *‘sheltered workshop’ means a school—*

12 “(i) *which provides special instruction*
 13 *or training designed to alleviate the dis-*
 14 *ability of the individual, and*

15 “(ii) *which is operated by an organiza-*
 16 *tion described in section 501(c)(3) and ex-*
 17 *empt from tax under section 501(a), or by*
 18 *a State, a possession of the United States,*
 19 *any political subdivision of any of the fore-*
 20 *going, the United States, or the District of*
 21 *Columbia.*

22 “(5) *SPECIAL RULES FOR SUPPORT.—For pur-*
 23 *poses of this subsection—*

24 “(A) *payments to a spouse which are in-*
 25 *cludible in the gross income of such spouse under*

1 *section 71 or 682 shall not be treated as a pay-*
 2 *ment by the payor spouse for the support of any*
 3 *dependent, and*

4 *“(B) in the case of the remarriage of a par-*
 5 *ent, support of a child received from the parent’s*
 6 *spouse shall be treated as received from the par-*
 7 *ent.*

8 *“(e) SPECIAL RULE FOR DIVORCED PARENTS.—*

9 *“(1) IN GENERAL.—Notwithstanding subsection*
 10 *(c)(4) or (d)(1)(C), if—*

11 *“(A) a child receives over one-half of the*
 12 *child’s support during the calendar year from*
 13 *the child’s parents—*

14 *“(i) who are divorced or legally sepa-*
 15 *rated under a decree of divorce or separate*
 16 *maintenance,*

17 *“(ii) who are separated under a writ-*
 18 *ten separation agreement, or*

19 *“(iii) who live apart at all times dur-*
 20 *ing the last 6 months of the calendar year,*
 21 *and*

22 *“(B) such child is in the custody of 1 or*
 23 *both of the child’s parents for more than one-half*
 24 *of the calendar year,*

1 *such child shall be treated as being the qualifying*
 2 *child or qualifying relative of the noncustodial parent*
 3 *for a calendar year if the requirements described in*
 4 *paragraph (2) are met.*

5 *“(2) REQUIREMENTS.—For purposes of para-*
 6 *graph (1), the requirements described in this para-*
 7 *graph are met if—*

8 *“(A) a decree of divorce or separate mainte-*
 9 *nance or written separation agreement between*
 10 *the parents applicable to the taxable year begin-*
 11 *ning in such calendar year provides that—*

12 *“(i) the noncustodial parent shall be*
 13 *entitled to any deduction allowable under*
 14 *section 151 for such child, or*

15 *“(ii) the custodial parent will sign a*
 16 *written declaration (in such manner and*
 17 *form as the Secretary may prescribe) that*
 18 *such parent will not claim such child as a*
 19 *dependent for such taxable year, or*

20 *“(B) in the case of such an agreement exe-*
 21 *cuted before January 1, 1985, the noncustodial*
 22 *parent provides at least \$600 for the support of*
 23 *such child during such calendar year.*

24 *For purposes of subparagraph (B), amounts expended*
 25 *for the support of a child or children shall be treated*

1 *as received from the noncustodial parent to the extent*
 2 *that such parent provided amounts for such support.*

3 “(3) *CUSTODIAL PARENT AND NONCUSTODIAL*
 4 *PARENT.—For purposes of this subsection—*

5 “(A) *CUSTODIAL PARENT.—The term ‘custo-*
 6 *dial parent’ means the parent with whom a*
 7 *child shared the same principal place of abode*
 8 *for the greater portion of the calendar year.*

9 “(B) *NONCUSTODIAL PARENT.—The term*
 10 *‘noncustodial parent’ means the parent who is*
 11 *not the custodial parent.*

12 “(4) *EXCEPTION FOR MULTIPLE-SUPPORT*
 13 *AGREEMENTS.—This subsection shall not apply in*
 14 *any case where over one-half of the support of the*
 15 *child is treated as having been received from a tax-*
 16 *payer under the provision of subsection (d)(3).*

17 “(f) *OTHER DEFINITIONS AND RULES.—For purposes*
 18 *of this section—*

19 “(1) *CHILD DEFINED.—*

20 “(A) *IN GENERAL.—The term ‘child’ means*
 21 *an individual who is—*

22 “(i) *a son, daughter, stepson, or step-*
 23 *daughter of the taxpayer, or*

24 “(ii) *an eligible foster child of the tax-*
 25 *payer.*

1 “(B) *ADOPTED CHILD*.—In determining
 2 whether any of the relationships specified in sub-
 3 paragraph (A)(i) or paragraph (4) exists, a le-
 4 gally adopted individual of the taxpayer, or an
 5 individual who is lawfully placed with the tax-
 6 payer for legal adoption by the taxpayer, shall be
 7 treated as a child of such individual by blood.

8 “(C) *ELIGIBLE FOSTER CHILD*.—For pur-
 9 poses of subparagraph (A)(ii), the term ‘eligible
 10 foster child’ means an individual who is placed
 11 with the taxpayer by an authorized placement
 12 agency or by judgment, decree, or other order of
 13 any court of competent jurisdiction.

14 “(2) *STUDENT DEFINED*.—The term ‘student’
 15 means an individual who during each of 5 calendar
 16 months during the calendar year in which the taxable
 17 year of the taxpayer begins—

18 “(A) is a full-time student at an edu-
 19 cational organization described in section
 20 170(b)(1)(A)(ii), or

21 “(B) is pursuing a full-time course of insti-
 22 tutional on-farm training under the supervision
 23 of an accredited agent of an educational organi-
 24 zation described in section 170(b)(1)(A)(ii) or of
 25 a State or political subdivision of a State.

1 “(3) *DETERMINATION OF HOUSEHOLD STATUS.*—
 2 *An individual shall not be treated as a member of the*
 3 *taxpayer’s household if at any time during the tax-*
 4 *able year of the taxpayer the relationship between*
 5 *such individual and the taxpayer is in violation of*
 6 *local law.*

7 “(4) *BROTHER AND SISTER.*—*The terms ‘brother’*
 8 *and ‘sister’ include a brother or sister by the half*
 9 *blood.*

10 “(5) *SPECIAL SUPPORT TEST IN CASE OF STU-*
 11 *DENTS.*—*For purposes of subsections (c)(1)(D) and*
 12 *(d)(1)(C), in the case of an individual who is—*

13 “(A) *a child of the taxpayer, and*

14 “(B) *a student,*

15 *amounts received as scholarships for study at an edu-*
 16 *cational organization described in section*
 17 *170(b)(1)(A)(ii) shall not be taken into account.*

18 “(6) *TREATMENT OF MISSING CHILDREN.*—

19 “(A) *IN GENERAL.*—*Solely for the purposes*
 20 *referred to in subparagraph (B), a child of the*
 21 *taxpayer—*

22 “(i) *who is presumed by law enforce-*
 23 *ment authorities to have been kidnapped by*
 24 *someone who is not a member of the family*
 25 *of such child or the taxpayer, and*

1 “(ii) *who had, for the taxable year in*
 2 *which the kidnapping occurred, the same*
 3 *principal place of abode as the taxpayer for*
 4 *more than one-half of the portion of such*
 5 *year before the date of the kidnapping,*
 6 *shall be treated as meeting the requirement of*
 7 *subsection (c)(1)(B) with respect to a taxpayer*
 8 *for all taxable years ending during the period*
 9 *that the child is kidnapped.*

10 “(B) *PURPOSES.*—Subparagraph (A) *shall*
 11 *apply solely for purposes of determining—*

12 “(i) *the deduction under section 151(c),*

13 “(ii) *the credit under section 24 (relat-*
 14 *ing to child tax credit),*

15 “(iii) *whether an individual is a sur-*
 16 *viving spouse or a head of a household (as*
 17 *such terms are defined in section 2), and*

18 “(iv) *the earned income credit under*
 19 *section 32.*

20 “(C) *COMPARABLE TREATMENT OF CERTAIN*
 21 *QUALIFYING RELATIVES.*—For purposes of this
 22 *section, a child of the taxpayer—*

23 “(i) *who is presumed by law enforce-*
 24 *ment authorities to have been kidnapped by*

1 *someone who is not a member of the family*
 2 *of such child or the taxpayer, and*

3 “(ii) *who was (without regard to this*
 4 *paragraph) a qualifying relative of the tax-*
 5 *payer for the portion of the taxable year be-*
 6 *fore the date of the kidnapping,*

7 *shall be treated as a qualifying relative of the*
 8 *taxpayer for all taxable years ending during the*
 9 *period that the child is kidnapped.*

10 “(D) *TERMINATION OF TREATMENT.*—Sub-
 11 *paragraphs (A) and (C) shall cease to apply as*
 12 *of the first taxable year of the taxpayer begin-*
 13 *ning after the calendar year in which there is a*
 14 *determination that the child is dead (or, if ear-*
 15 *lier, in which the child would have attained age*
 16 *18).*

17 “(7) *CROSS REFERENCES.*—

“For provision treating child as dependent of both
 parents for purposes of certain provisions, see sec-
 tions 105(b), 132(h)(2)(B), and 213(d)(5).”.

18 **SEC. 502. MODIFICATIONS OF DEFINITION OF HEAD OF**
 19 **HOUSEHOLD.**

20 (a) *HEAD OF HOUSEHOLD.*—Clause (i) of section
 21 2(b)(1)(A) *is amended to read as follows:*

22 “(i) *a qualifying child of the indi-*
 23 *vidual (as defined in section 152(c), deter-*

1 mined without regard to section 152(e)), but
 2 not if such child—

3 “(I) is married at the close of the
 4 taxpayer’s taxable year, and
 5 “(II) is not a dependent of such
 6 individual by reason of section
 7 152(b)(2) or 152(b)(3), or both, or”.

8 (b) *CONFORMING AMENDMENTS.*—

9 (1) Section 2(b)(2) is amended by striking sub-
 10 paragraph (A) and by redesignating subparagraphs
 11 (B), (C), and (D) as subparagraphs (A), (B), and
 12 (C), respectively.

13 (2) Clauses (i) and (ii) of section 2(b)(3)(B) are
 14 amended to read as follows:

15 “(i) subparagraph (H) of section
 16 152(d)(2), or

17 “(ii) paragraph (3) of section 152(d).”.

18 **SEC. 503. MODIFICATIONS OF DEPENDENT CARE CREDIT.**

19 (a) *IN GENERAL.*—Section 21(a)(1) is amended by
 20 striking “In the case of an individual who maintains a
 21 household which includes as a member one or more quali-
 22 fying individuals (as defined in subsection (b)(1))” and in-
 23 serting “In the case of an individual for which there are
 24 1 or more qualifying individuals (as defined in subsection
 25 (b)(1)) with respect to such individual”.

1 (b) *QUALIFYING INDIVIDUAL*.—Paragraph (1) of sec-
 2 tion 21(b) is amended to read as follows:

3 “(1) *QUALIFYING INDIVIDUAL*.—The term ‘quali-
 4 fying individual’ means—

5 “(A) a dependent of the taxpayer (as de-
 6 fined in section 152(a)(1)) who has not attained
 7 age 13,

8 “(B) a dependent of the taxpayer who is
 9 physically or mentally incapable of caring for
 10 himself or herself and who has the same prin-
 11 cipal place of abode as the taxpayer for more
 12 than one-half of such taxable year, or

13 “(C) the spouse of the taxpayer, if the
 14 spouse is physically or mentally incapable of
 15 caring for himself or herself and who has the
 16 same principal place of abode as the taxpayer
 17 for more than one-half of such taxable year.”.

18 (c) *CONFORMING AMENDMENT*.—Paragraph (1) of sec-
 19 tion 21(e) is amended to read as follows:

20 “(1) *PLACE OF ABODE*.—An individual shall not
 21 be treated as having the same principal place of abode
 22 of the taxpayer if at any time during the taxable year
 23 of the taxpayer the relationship between the indi-
 24 vidual and the taxpayer is in violation of local law.”.

1 **SEC. 504. MODIFICATIONS OF CHILD TAX CREDIT.**

2 (a) *IN GENERAL.*—Paragraph (1) of section 24(c) is
3 amended to read as follows:

4 “(1) *IN GENERAL.*—The term ‘qualifying child’
5 means a qualifying child of the taxpayer (as defined
6 in section 152(c)) who has not attained age 17.”.

7 (b) *CONFORMING AMENDMENT.*—Section 24(c)(2) is
8 amended by striking “the first sentence of section 152(b)(3)”
9 and inserting “subparagraph (A) of section 152(b)(3)”.

10 **SEC. 505. MODIFICATIONS OF EARNED INCOME CREDIT.**

11 (a) *QUALIFYING CHILD.*—Paragraph (3) of section
12 32(c) is amended to read as follows:

13 “(3) *QUALIFYING CHILD.*—

14 “(A) *IN GENERAL.*—The term ‘qualifying
15 child’ means a qualifying child of the taxpayer
16 (as defined in section 152(c), determined without
17 regard to paragraph (1)(D) thereof and section
18 152(e)).

19 “(B) *MARRIED INDIVIDUAL.*—The term
20 ‘qualifying child’ shall not include an individual
21 who is married as of the close of the taxpayer’s
22 taxable year unless the taxpayer is entitled to a
23 deduction under section 151 for such taxable
24 year with respect to such individual (or would be
25 so entitled but for section 152(e)).

1 “(C) *PLACE OF ABODE.*—For purposes of
 2 subparagraph (A), the requirements of section
 3 152(c)(1)(B) shall be met only if the principal
 4 place of abode is in the United States.

5 “(D) *IDENTIFICATION REQUIREMENTS.*—

6 “(i) *IN GENERAL.*—A qualifying child
 7 shall not be taken into account under sub-
 8 section (b) unless the taxpayer includes the
 9 name, age, and TIN of the qualifying child
 10 on the return of tax for the taxable year.

11 “(ii) *OTHER METHODS.*—The Sec-
 12 retary may prescribe other methods for pro-
 13 viding the information described in clause
 14 (i).”.

15 (b) *CONFORMING AMENDMENTS.*—

16 (1) Section 32(c)(1) is amended by striking sub-
 17 paragraph (C) and by redesignating subparagraphs
 18 (D), (E), (F), and (G) as subparagraphs (C), (D),
 19 (E), and (F), respectively.

20 (2) Section 32(c)(4) is amended by striking
 21 “(3)(E)” and inserting “(3)(C)”.

22 (3) Section 32(m) is amended by striking “sub-
 23 sections (c)(1)(F)” and inserting “subsections
 24 (c)(1)(E)”.

1 **SEC. 506. MODIFICATIONS OF DEDUCTION FOR PERSONAL**
 2 **EXEMPTION FOR DEPENDENTS.**

3 *Subsection (c) of section 151 is amended to read as*
 4 *follows:*

5 “(c) *ADDITIONAL EXEMPTION FOR DEPENDENTS.*—An
 6 *exemption of the exemption amount for each individual who*
 7 *is a dependent (as defined in section 152) of the taxpayer*
 8 *for the taxable year.”.*

9 **SEC. 507. TECHNICAL AND CONFORMING AMENDMENTS.**

10 (1) *Section 2(a)(1)(B)(i) is amended by insert-*
 11 *ing “, determined without regard to subsections*
 12 *(b)(1), (b)(2), and (d)(1)(B) thereof” after “section*
 13 *152”.*

14 (2) *Section 21(e)(5) is amended—*

15 (A) *by striking “paragraph (2) or (4) of” in*
 16 *subparagraph (A), and*

17 (B) *by striking “within the meaning of sec-*
 18 *tion 152(e)(1)” and inserting “as defined in sec-*
 19 *tion 152(e)(3)(A)”.*

20 (3) *Section 21(e)(6)(B) is amended by striking*
 21 *“section 151(c)(3)” and inserting “section 152(f)(1)”.*

22 (4) *Section 25B(c)(2)(B) is amended by striking*
 23 *“151(c)(4)” and inserting “152(f)(2)”.*

24 (5)(A) *Subparagraphs (A) and (B) of section*
 25 *51(i)(1) are each amended by striking “paragraphs*
 26 *(1) through (8) of section 152(a)” both places it ap-*

1 *pears and inserting “subparagraphs (A) through (G)*
 2 *of section 152(d)(2)”.*

3 *(B) Section 51(i)(1)(C) is amended by striking*
 4 *“152(a)(9)” and inserting “152(d)(2)(H)”.*

5 *(6) Section 72(t)(2)(D)(i)(III) is amended by in-*
 6 *serting “, determined without regard to subsections*
 7 *(b)(1), (b)(2), and (d)(1)(B) thereof” after “section*
 8 *152”.*

9 *(7) Section 72(t)(7)(A)(iii) is amended by strik-*
 10 *ing “151(c)(3)” and inserting “152(f)(1)”.*

11 *(8) Section 42(i)(3)(D)(ii)(I) is amended by in-*
 12 *serting “, determined without regard to subsections*
 13 *(b)(1), (b)(2), and (d)(1)(B) thereof” after “section*
 14 *152”.*

15 *(9) Subsections (b) and (c)(1) of section 105 are*
 16 *amended by inserting “, determined without regard to*
 17 *subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after*
 18 *“section 152”.*

19 *(10) Section 120(d)(4) is amended by inserting*
 20 *“(determined without regard to subsections (b)(1),*
 21 *(b)(2), and (d)(1)(B) thereof)” after “section 152”.*

22 *(11) Section 125(e)(1)(D) is amended by insert-*
 23 *ing “, determined without regard to subsections*
 24 *(b)(1), (b)(2), and (d)(1)(B) thereof” after “section*
 25 *152”.*

1 (12) Section 129(c)(2) is amended by striking
2 “151(c)(3)” and inserting “152(f)(1)”.

3 (13) The first sentence of section 132(h)(2)(B) is
4 amended by striking “151(c)(3)” and inserting
5 “152(f)(1)”.

6 (14) Section 153 is amended by striking para-
7 graph (1) and by redesignating paragraphs (2), (3),
8 and (4) as paragraphs (1), (2), and (3), respectively.

9 (15) Section 170(g)(1) is amended by inserting
10 “(determined without regard to subsections (b)(1),
11 (b)(2), and (d)(1)(B) thereof)” after “section 152”.

12 (16) Section 170(g)(3) is amended by striking
13 “paragraphs (1) through (8) of section 152(a)” and
14 inserting “subparagraphs (A) through (G) of section
15 152(d)(2)”.

16 (17) Section 213(a) is amended by inserting “,
17 determined without regard to subsections (b)(1),
18 (b)(2), and (d)(1)(B) thereof” after “section 152”.

19 (18) The second sentence of section 213(d)(11) is
20 amended by striking “paragraphs (1) through (8) of
21 section 152(a)” and inserting “subparagraphs (A)
22 through (G) of section 152(d)(2)”.

23 (19) Section 220(d)(2)(A) is amended by insert-
24 ing “, determined without regard to subsections

1 (b)(1), (b)(2), and (d)(1)(B) thereof” after “section
2 152”.

3 (20) Section 221(d)(4) is amended by inserting
4 “(determined without regard to subsections (b)(1),
5 (b)(2), and (d)(1)(B) thereof)” after “section 152”.

6 (21) Section 529(e)(2)(B) is amended by striking
7 “paragraphs (1) through (8) of section 152(a)” and
8 inserting “subparagraphs (A) through (G) of section
9 152(d)(2)”.

10 (22) Section 2032A(c)(7)(D) is amended by
11 striking “section 151(c)(4)” and inserting “section
12 152(f)(2)”.

13 (23) Section 2057(d)(2)(B) is amended by insert-
14 ing “, determined without regard to subsections
15 (b)(1), (b)(2), and (d)(1)(B) thereof” after “section
16 152”.

17 (24) Section 7701(a)(17) is amended by striking
18 “152(b)(4), 682,” and inserting “682”.

19 (25) Section 7702B(f)(2)(C)(iii) is amended by
20 striking “paragraphs (1) through (8) of section
21 152(a)” and inserting “subparagraphs (A) through
22 (G) of section 152(d)(2)”.

23 (26) Section 7703(b)(1) is amended—

24 (A) by striking “151(c)(3)” and inserting
25 “152(f)(1)”, and

1 (B) by striking “paragraph (2) or (4) of”.

2 **SEC. 508. EFFECTIVE DATE.**

3 The amendments made by this subtitle shall apply to
4 taxable years beginning after December 31, 2004.

5 **Subtitle B—Simplification Through**
6 **Elimination of Inoperative Pro-**
7 **visions**

8 **SEC. 511. SIMPLIFICATION THROUGH ELIMINATION OF IN-**
9 **OPERATIVE PROVISIONS.**

10 (a) *IN GENERAL.*—

11 (1) *ADJUSTMENTS IN TAX TABLES SO THAT IN-*
12 *FLATION WILL NOT RESULT IN TAX INCREASES.*—
13 Paragraph (7) of section 1(f) is amended to read as
14 follows:

15 “(7) *SPECIAL RULE FOR CERTAIN BRACKETS.*—
16 In prescribing tables under paragraph (1) which
17 apply to taxable years beginning in a calendar year
18 after 1994, the cost-of-living adjustment used in mak-
19 ing adjustments to the dollar amounts at which the
20 36 percent rate bracket begins or at which the 39.6
21 percent rate bracket begins shall be determined under
22 paragraph (3) by substituting ‘1993’ for ‘1992’.”.

23 (2) *CREDIT FOR PRODUCING FUEL FROM NON-*
24 *CONVENTIONAL SOURCE.*—Section 29 is amended by
25 striking subsection (e) and by redesignating sub-

1 sections (f) and (g) as subsections (e) and (f), respec-
2 tively.

3 (3) *EARNED INCOME CREDIT*.—Paragraph (1) of
4 section 32(b) is amended—

5 (A) by striking subparagraphs (B) and (C),
6 and

7 (B) in subparagraph (A) by striking “(A)
8 *IN GENERAL*.—In the case of taxable years begin-
9 ning after 1995” and moving the table 2 ems to
10 the left.

11 (4) *GENERAL BUSINESS CREDITS*.—Subsection
12 (d) of section 38 is amended by striking paragraph
13 (3).

14 (5) *CARRYBACK AND CARRYFORWARD OF UNUSED*
15 *CREDITS*.—Subsection (d) of section 39 is amended by
16 striking paragraphs (1) through (8) and by redesign-
17 ating paragraphs (9) and (10) as paragraphs (1)
18 and (2), respectively.

19 (6) *ADJUSTMENTS BASED ON ADJUSTED CUR-*
20 *RENT EARNINGS*.—Clause (ii) of section 56(g)(4)(F) is
21 amended by striking “In the case of any taxable year
22 beginning after December 31, 1992, clause” and in-
23 serting “Clause”.

24 (7) *ITEMS OF TAX PREFERENCE; DEPLETION*.—
25 Paragraph (1) of section 57(a) is amended by striking

1 *“Effective with respect to taxable years beginning*
 2 *after December 31, 1992, this” and inserting “This”.*

3 (8) *INTANGIBLE DRILLING COSTS.—*

4 (A) *Clause (i) of section 57(a)(2)(E) is*
 5 *amended by striking “In the case of any taxable*
 6 *year beginning after December 31, 1992, this”*
 7 *and inserting “This”.*

8 (B) *Clause (ii) of section 57(a)(2)(E) is*
 9 *amended by striking “(30 percent in the case of*
 10 *taxable years beginning in 1993)”.*

11 (9) *ANNUITIES; CERTAIN PROCEEDS OF ENDOW-*
 12 *MENT AND LIFE INSURANCE CONTRACTS.—Section 72*
 13 *is amended—*

14 (A) *in subsection (c)(4) by striking “; except*
 15 *that if such date was before January 1, 1954,*
 16 *then the annuity starting date is January 1,*
 17 *1954”, and*

18 (B) *in subsection (g)(3) by striking “Janu-*
 19 *ary 1, 1954, or” and “, whichever is later”.*

20 (10) *ACCIDENT AND HEALTH PLANS.—Section*
 21 *105(f) is amended by striking “or (d)”.*

22 (11) *FLEXIBLE SPENDING ARRANGEMENTS.—Sec-*
 23 *tion 106(c)(1) is amended by striking “Effective on*
 24 *and after January 1, 1997, gross” and inserting*
 25 *“Gross”.*

1 (12) *CERTAIN COMBAT ZONE COMPENSATION OF*
 2 *MEMBERS OF THE ARMED FORCES.*—*Subsection (c) of*
 3 *section 112 is amended—*

4 (A) *by striking “(after June 24, 1950)” in*
 5 *paragraph (2), and*

6 (B) *striking “such zone;” and all that fol-*
 7 *lows in paragraph (3) and inserting “such*
 8 *zone.”.*

9 (13) *PRINCIPAL RESIDENCE.*—*Section 121(b)(3)*
 10 *is amended—*

11 (A) *by striking subparagraph (B); and*

12 (B) *in subparagraph (A) by striking “(A)*
 13 *IN GENERAL.—” and moving the text 2 ems to*
 14 *the left.*

15 (14) *CERTAIN REDUCED UNIFORMED SERVICES*
 16 *RETIREMENT PAY.*—*Section 122(b)(1) is amended by*
 17 *striking “after December 31, 1965.”.*

18 (15) *GREAT PLAINS CONSERVATION PROGRAM.*—
 19 *Section 126(a) is amended by striking paragraph (6)*
 20 *and by redesignating paragraphs (7), (8), (9), and*
 21 *(10) as paragraphs (6), (7), (8), and (9), respectively.*

22 (16) *MORTGAGE REVENUE BONDS FOR RESI-*
 23 *DENCES IN FEDERAL DISASTER AREAS.*—*Section*
 24 *143(k) is amended by striking paragraph (11).*

1 (17) *TREBLE DAMAGE PAYMENTS UNDER THE*
 2 *ANTITRUST LAW.*—Section 162(g) is amended by
 3 *striking the last sentence.*

4 (18) *STATE LEGISLATORS’ TRAVEL EXPENSES*
 5 *AWAY FROM HOME.*—Paragraph (4) of section 162(h)
 6 *is amended by striking “For taxable years beginning*
 7 *after December 31, 1980, this” and inserting “This”.*

8 (19) *HEALTH INSURANCE COSTS OF SELF-EM-*
 9 *PLOYED INDIVIDUALS.*—Paragraph (1) of section
 10 *162(l) is amended to read as follows:*

11 “(1) *ALLOWANCE OF DEDUCTION.*—*In the case of*
 12 *an individual who is an employee within the mean-*
 13 *ing of section 401(c)(1), there shall be allowed as a*
 14 *deduction under this section an amount equal to 100*
 15 *percent of the amount paid during the taxable year*
 16 *for insurance which constitutes medical care for the*
 17 *taxpayer and the taxpayer’s spouse and dependents.”.*

18 (20) *INTEREST.*—

19 (A) *Section 163 is amended by striking*
 20 *paragraph (6) of subsection (d) and paragraph*
 21 *(5) (relating to phase-in of limitation) of sub-*
 22 *section (h).*

23 (B) *Section 56(b)(1)(C) is amended by*
 24 *striking clause (ii) and by redesignating clauses*

1 (iii), (iv), and (v) as clauses (ii), (iii), and (iv),
 2 respectively.

3 (21) *CHARITABLE, ETC., CONTRIBUTIONS AND*
 4 *GIFTS.*—Section 170 is amended by striking sub-
 5 section (k).

6 (22) *AMORTIZABLE BOND PREMIUM.*—Subpara-
 7 graph (B) of section 171(b)(1) is amended to read as
 8 follows:

9 “(B)(i) in the case of a bond described in
 10 subsection (a)(2), with reference to the amount
 11 payable on maturity or earlier call date, and

12 “(ii) in the case of a bond described in sub-
 13 section (a)(1), with reference to the amount pay-
 14 able on maturity (or if it results in a smaller
 15 amortizable bond premium attributable to the
 16 period of earlier call date, with reference to the
 17 amount payable on earlier call date), and”.

18 (23) *NET OPERATING LOSS CARRYBACKS AND*
 19 *CARRYOVERS.*—

20 (A) Section 172 is amended—

21 (i) by striking subparagraph (D) of
 22 subsection (b)(1) and by redesignating sub-
 23 paragraphs (E), (F), (G), and (H) as sub-
 24 paragraphs (D), (E), (F), and (G), respec-
 25 tively,

1 (ii) by striking “ending after August 2,
2 1989” in subsection (b)(1)(D)(i)(II) (as re-
3 designated by clause (i)),

4 (iii) by striking “subparagraph (F)”
5 in subsection (b)(1)(G) (as redesignated by
6 clause (i)) and inserting “subparagraph
7 (E)”,

8 (iv) by striking subsection (g), and

9 (v) by striking subparagraph (F) of
10 subsection (h)(2).

11 (B) Section 172(h)(4) is amended by strik-
12 ing “subsection (b)(1)(E)” each place it appears
13 and inserting “subsection (b)(1)(D)”.

14 (C) Section 172(i)(3) is amended by strik-
15 ing “subsection (b)(1)(G)” each place it appears
16 and inserting “subsection (b)(1)(F)”.

17 (D) Section 172(j) is amended by striking
18 “subsection (b)(1)(H)” each place it appears and
19 inserting “subsection (b)(1)(G)”.

20 (E) Section 172, as amended by subpara-
21 graphs (A) through (D) of this paragraph, is
22 amended—

23 (i) by redesignating subsections (h),
24 (i), and (j) as subsections (g), (h), and (i),
25 respectively,

1 (ii) by striking “subsection (h)” each
 2 place it appears and inserting “subsection
 3 (g)”, and

4 (iii) by striking “subsection (i)” each
 5 place it appears and inserting “subsection
 6 (h)”.

7 (24) *RESEARCH AND EXPERIMENTAL EXPENDI-*
 8 *TURES.*—Subparagraph (A) of section 174(a)(2) is
 9 amended to read as follows:

10 “(A) *WITHOUT CONSENT.*—A taxpayer
 11 may, without the consent of the Secretary, adopt
 12 the method provided in this subsection for his
 13 first taxable year for which expenditures de-
 14 scribed in paragraph (1) are paid or incurred.”.

15 (25) *AMORTIZATION OF CERTAIN RESEARCH AND*
 16 *EXPERIMENTAL EXPENDITURES.*—Paragraph (2) of
 17 section 174(b)(2) is amended by striking “beginning
 18 after December 31, 1953”.

19 (26) *SOIL AND WATER CONSERVATION EXPENDI-*
 20 *TURES.*—Paragraph (1) of section 175(d) is amended
 21 to read as follows:

22 “(1) *WITHOUT CONSENT.*—A taxpayer may,
 23 without the consent of the Secretary, adopt the method
 24 provided in this section for his first taxable year for

1 *which expenditures described in subsection (a) are*
 2 *paid or incurred.”.*

3 (27) *ACTIVITIES NOT ENGAGED IN FOR PROF-*
 4 *IT.—Section 183(e)(1) is amended by striking the last*
 5 *sentence.*

6 (28) *DIVIDENDS RECEIVED ON CERTAIN PRE-*
 7 *FERRED STOCK; AND DIVIDENDS PAID ON CERTAIN*
 8 *PREFERRED STOCK OF PUBLIC UTILITIES.—*

9 (A) *Sections 244 and 247 are hereby re-*
 10 *pealed and the table of sections for part VIII of*
 11 *subchapter B of chapter 1 is amended by strik-*
 12 *ing the items relating to sections 244 and 247.*

13 (B) *Paragraph (5) of section 172(d) is*
 14 *amended to read as follows:*

15 “(5) *COMPUTATION OF DEDUCTION FOR DIVI-*
 16 *DENDS RECEIVED.—The deductions allowed by section*
 17 *243 (relating to dividends received by corporations)*
 18 *and 245 (relating to dividends received from certain*
 19 *foreign corporations) shall be computed without re-*
 20 *gard to section 246(b) (relating to limitation on ag-*
 21 *gregate amount of deductions).”.*

22 (C) *Paragraph (1) of section 243(c) is*
 23 *amended to read as follows:*

24 “(1) *IN GENERAL.—In the case of any dividend*
 25 *received from a 20-percent owned corporation, sub-*

1 *section (a)(1) shall be applied by substituting ‘80 per-*
 2 *cent’ for ‘70 percent’.*”

3 *(D) Section 243(d) is amended by striking*
 4 *paragraph (4).*

5 *(E) Section 246 is amended—*

6 *(i) by striking “, 244,” in subsection*
 7 *(a)(1),*

8 *(ii) in subsection (b)(1)—*

9 *(I) by striking “sections*
 10 *243(a)(1), and 244(a),” the first place*
 11 *it appears and inserting “section*
 12 *243(a)(1),”*

13 *(II) by striking “244(a),” the sec-*
 14 *ond place it appears therein, and*

15 *(III) by striking “subsection (a)*
 16 *or (b) of section 245, and 247,” and*
 17 *inserting “and subsection (a) or (b) of*
 18 *section 245,” and*

19 *(iii) by striking “, 244,” in subsection*
 20 *(c)(1).*

21 *(F) Section 246A is amended by striking “,*
 22 *244,” both places it appears in subsections (a)*
 23 *and (e).*

24 *(G) Sections 263(g)(2)(B)(iii), 277(a),*
 25 *301(e)(2), 469(e)(4), 512(a)(3)(A), subpara-*

1 *graphs (A), (C), and (D) of section 805(a)(4),*
 2 *805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii),*
 3 *832(b)(5), 833(b)(3)(E), 1059(b)(2)(B), and*
 4 *1244(c)(2)(C) are each amended by striking “,*
 5 *244,” each place it appears.*

6 *(H) Section 805(a)(4)(B) is amended by*
 7 *striking “, 244(a),” each place it appears.*

8 *(I) Section 810(c)(2)(B) is amended by*
 9 *striking “244 (relating to dividends on certain*
 10 *preferred stock of public utilities),”.*

11 *(29) ORGANIZATION EXPENSES.—Section 248(c)*
 12 *is amended by striking “beginning after December 31,*
 13 *1953,” and by striking the last sentence.*

14 *(30) BOND REPURCHASE PREMIUM.—Section*
 15 *249(b)(1) is amended by striking “, in the case of*
 16 *bonds or other evidences of indebtedness issued after*
 17 *February 28, 1913,”.*

18 *(31) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY*
 19 *DISALLOWED.—Section 267(d) is amended by striking*
 20 *“(or by reason of section 24(b) of the Internal Rev-*
 21 *enue Code of 1939)” in paragraph (1), by striking*
 22 *“after December 31, 1953,” in paragraph (2), by*
 23 *striking the second sentence, and by striking “or by*
 24 *reason of section 118 of the Internal Revenue Code of*
 25 *1939” in the last sentence.*

1 (32) *ACQUISITIONS MADE TO EVADE OR AVOID*
 2 *INCOME TAX.*—Paragraphs (1) and (2) of section
 3 269(a) are each amended by striking “or acquired on
 4 or after October 8, 1940,”.

5 (33) *INTEREST ON INDEBTEDNESS INCURRED BY*
 6 *CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF AN-*
 7 *OTHER CORPORATION.*—Section 279 is amended—

8 (A) by striking “after December 31, 1967,”
 9 in subsection (a)(2),

10 (B) by striking “after October 9, 1969,” in
 11 subsection (b),

12 (C) by striking “after October 9, 1969, and”
 13 in subsection (d)(5), and

14 (D) by striking subsection (i) and by redес-
 15 ignating subsection (j) as subsection (i).

16 (34) *SPECIAL RULES RELATING TO CORPORATE*
 17 *PREFERENCE ITEMS.*—Paragraph (4) of section
 18 291(a) is amended by striking “In the case of taxable
 19 years beginning after December 31, 1984, section”
 20 and inserting “Section”.

21 (35) *QUALIFICATIONS FOR TAX CREDIT EM-*
 22 *PLOYEE STOCK OWNERSHIP PLAN.*—Section 409 is
 23 amended by striking subsections (a), (g), and (q).

24 (36) *FUNDING STANDARDS.*—Section 412(m)(4)
 25 is amended—

1 (A) by striking “the applicable percentage”
 2 in subparagraph (A) and inserting “25 percent”,
 3 and

4 (B) by striking subparagraph (C) and by
 5 redesignating subparagraph (D) as subpara-
 6 graph (C).

7 (37) *RETIREE HEALTH ACCOUNTS*.—Section 420
 8 is amended—

9 (A) by striking paragraph (4) in subsection
 10 (b) and by redesignating paragraph (5) as para-
 11 graph (4), and

12 (B) by amending paragraph (2) of sub-
 13 section (c) to read as follows:

14 “(2) *REQUIREMENTS RELATING TO PENSION*
 15 *BENEFITS ACCRUING BEFORE TRANSFER*.—The re-
 16 quirements of this paragraph are met if the plan pro-
 17 vides that the accrued pension benefits of any partici-
 18 pant or beneficiary under the plan become nonforfeit-
 19 able in the same manner which would be required if
 20 the plan had terminated immediately before the quali-
 21 fied transfer (or in the case of a participant who sep-
 22 arated during the 1-year period ending on the date of
 23 the transfer, immediately before such separation).”.

1 (38) *EMPLOYEE STOCK PURCHASE PLANS.*—*Sec-*
 2 *tion 423(a) is amended by striking “after December*
 3 *31, 1963,”.*

4 (39) *LIMITATION ON DEDUCTIONS FOR CERTAIN*
 5 *FARMING.*—*Section 464 is amended—*

6 (A) *by striking “any farming syndicate (as*
 7 *defined in subsection (c))” both places it appears*
 8 *in subsections (a) and (b) and inserting “any*
 9 *taxpayer to whom subsection (f) applies”, and*

10 (B) *by striking subsection (g).*

11 (40) *DEDUCTIONS LIMITED TO AMOUNT AT*
 12 *RISK.*—

13 (A) *Paragraph (3) of section 465(c) is*
 14 *amended by striking “In the case of taxable*
 15 *years beginning after December 31, 1978, this”*
 16 *and inserting “This”.*

17 (B) *Paragraph (2) of section 465(e)(2)(A) is*
 18 *amended by striking “beginning after December*
 19 *31, 1978”.*

20 (41) *NUCLEAR DECOMMISSIONING COSTS.*—*Sec-*
 21 *tion 468A(e)(2) is amended—*

22 (A) *by striking “at the rate set forth in sub-*
 23 *paragraph (B)” in subparagraph (A) and insert-*
 24 *ing “at a rate of 20 percent”, and*

1 (B) by striking subparagraph (B) and by
 2 redesignating subparagraphs (C) and (D) as sub-
 3 paragraphs (B) and (C), respectively.

4 (42) *PASSIVE ACTIVITY LOSSES AND CREDITS*
 5 *LIMITED.*—

6 (A) Section 469 is amended by striking sub-
 7 section (m).

8 (B) Subsection (b) of section 58 is amended
 9 by adding “and” at the end of paragraph (1), by
 10 striking paragraph (2), and by redesignating
 11 paragraph (3) as paragraph (2).

12 (43) *ADJUSTMENTS REQUIRED BY CHANGES IN*
 13 *METHOD OF ACCOUNTING.*—Section 481(b)(3) is
 14 amended by striking subparagraph (C).

15 (44) *EXEMPTION FROM TAX ON CORPORATIONS,*
 16 *CERTAIN TRUSTS, ETC.*—Section 501 is amended by
 17 striking subsection (q).

18 (45) *REQUIREMENTS FOR EXEMPTION.*—

19 (A) Section 503(a)(1) is amended to read as
 20 follows:

21 “(1) *GENERAL RULE.*—An organization de-
 22 scribed in paragraph (17) or (18) of section 501(c) or
 23 described in section 401(a) and referred to in section
 24 4975(g)(2) or (3) shall not be exempt from taxation

1 *under section 501(a) if it has engaged in a prohibited*
 2 *transaction.”.*

3 (B) *Paragraph (2) of section 503(a) is*
 4 *amended by striking “described in section*
 5 *501(c)(17) or (18) or paragraph (a)(1)(B)” and*
 6 *inserting “described in paragraph (1)”.*

7 (C) *Subsection (c) of section 503 is amended*
 8 *by striking “described in section 501(c)(17) or*
 9 *(18) or subsection (a)(1)(B)” and inserting “de-*
 10 *scribed in subsection (a)(1)”.*

11 (46) *AMOUNTS RECEIVED BY SURVIVING ANNU-*
 12 *ITANT UNDER JOINT AND SURVIVOR ANNUITY CON-*
 13 *TRACT.—Subparagraph (A) of section 691(d)(1) is*
 14 *amended by striking “after December 31, 1953, and”.*

15 (47) *INCOME TAXES OF MEMBERS OF ARMED*
 16 *FORCES ON DEATH.—Section 692(a)(1) is amended*
 17 *by striking “after June 24, 1950”.*

18 (48) *INSURANCE COMPANY TAXABLE INCOME.—*

19 (A) *Section 832(e) is amended by striking*
 20 *“of taxable years beginning after December 31,*
 21 *1966,”.*

22 (B) *Section 832(e)(6) is amended by strik-*
 23 *ing “In the case of any taxable year beginning*
 24 *after December 31, 1970, the” and by inserting*
 25 *“The”.*

1 (49) *TAX ON NONRESIDENT ALIEN INDIVID-*
 2 *UALS.—Subparagraph (B) of section 871(a)(1) is*
 3 *amended to read as follows:*

4 “(B) gains described in subsection (b) or (c)
 5 of section 631,”.

6 (50) *PROPERTY ON WHICH LESSEE HAS MADE*
 7 *IMPROVEMENTS.—Section 1019 is amended by strik-*
 8 *ing the last sentence.*

9 (51) *INVOLUNTARY CONVERSION.—Section 1033*
 10 *is amended by striking subsection (j) and by redesign-*
 11 *ating subsection (k) as subsection (j).*

12 (52) *PROPERTY ACQUIRED DURING AFFILI-*
 13 *ATION.—Section 1051 is repealed and the table of sec-*
 14 *tions for part IV of subchapter O of chapter 1 is*
 15 *amended by striking the item relating to section 1051.*

16 (53) *HOLDING PERIOD OF PROPERTY.—*

17 (A) *Paragraph (5) of section 1223 is*
 18 *amended by striking “(or under so much of sec-*
 19 *tion 1052(c) as refers to section 113(a)(23) of the*
 20 *Internal Revenue Code of 1939)”.*

21 (B) *Paragraph (7) of section 1223 is*
 22 *amended by striking the last sentence.*

23 (C) *Paragraph (9) of section 1223 is re-*
 24 *pealed.*

1 (54) *PROPERTY USED IN THE TRADE OR BUSI-*
 2 *NESS AND INVOLUNTARY CONVERSIONS.*—*Subpara-*
 3 *graph (A) of section 1231(c)(2) is amended by strik-*
 4 *ing “beginning after December 31, 1981”.*

5 (55) *SALE OR EXCHANGE OF PATENTS.*—*Section*
 6 *1235 is amended—*

7 *(A) by striking subsection (c) and by redes-*
 8 *ignating subsections (d) and (e) as (c) and (d),*
 9 *respectively, and*

10 *(B) by striking “(d)” in subsection (b) and*
 11 *inserting “(c)”.*

12 (56) *DEALERS IN SECURITIES.*—*Subsection (b)*
 13 *of section 1236 is amended by striking “after Novem-*
 14 *ber 19, 1951,”.*

15 (57) *SALE OF PATENTS.*—*Subsection (a) of sec-*
 16 *tion 1249 is amended by striking “after December 31,*
 17 *1962,”.*

18 (58) *GAIN FROM DISPOSITION OF FARM LAND.*—
 19 *Paragraph (1) of section 1252(a) is amended by strik-*
 20 *ing “after December 31, 1969,” both places it ap-*
 21 *pears.*

22 (59) *TREATMENT OF AMOUNTS RECEIVED ON RE-*
 23 *TIREMENT OR SALE OR EXCHANGE OF DEBT INSTRU-*
 24 *MENTS.*—*Subsection (c) of section 1271 is amended to*
 25 *read as follows:*

1 “(c) *SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH*
 2 *RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CUR-*
 3 *RENTLY INCLUDIBLE.*—

4 “(1) *IN GENERAL.*—*On the sale or exchange of*
 5 *debt instruments issued by a government or political*
 6 *subdivision thereof after December 31, 1954, and be-*
 7 *fore July 2, 1982, or by a corporation after December*
 8 *31, 1954, and on or before May 27, 1969, any gain*
 9 *realized which does not exceed—*

10 “(A) *an amount equal to the original issue*
 11 *discount, or*

12 “(B) *if at the time of original issue there*
 13 *was no intention to call the debt instrument be-*
 14 *fore maturity, an amount which bears the same*
 15 *ratio to the original issue discount as the num-*
 16 *ber of complete months that the debt instrument*
 17 *was held by the taxpayer bears to the number of*
 18 *complete months from the date of original issue*
 19 *to the date of maturity,*
 20 *shall be considered as ordinary income.*

21 “(2) *SUBSECTION (a)(2)(A) NOT TO APPLY.*—*Sub-*
 22 *section (a)(2)(A) shall not apply to any debt instru-*
 23 *ment referred to in subparagraph (A) of this para-*
 24 *graph.*

1 “(3) *CROSS REFERENCE.*—

“***For current inclusion of original issue discount, see section 1272.***”.

2 (60) *AMOUNT AND METHOD OF ADJUSTMENT.*—

3 *Section 1314 is amended by striking subsection (d)*
 4 *and by redesignating subsection (e) as subsection (d).*

5 (61) *ELECTION; REVOCATION; TERMINATION.*—

6 *Clause (iii) of section 1362(d)(3) is amended by strik-*
 7 *ing “unless” and all that follows and inserting “un-*
 8 *less the corporation was an S corporation for such*
 9 *taxable year.”.*

10 (62) *OLD-AGE, SURVIVORS, AND DISABILITY IN-*
 11 *SURANCE.*—*Subsection (a) of section 1401 is amended*
 12 *by striking “the following percent” and all that fol-*
 13 *lows and inserting “12.4 percent of the amount of the*
 14 *self-employment income for such taxable year.”.*

15 (63) *HOSPITAL INSURANCE.*—*Subsection (b) of*
 16 *section 1401 is amended by striking “the following*
 17 *percent” and all that follows and inserting “2.9 per-*
 18 *cent of the amount of the self-employment income for*
 19 *such taxable year.”.*

20 (64) *MINISTERS, MEMBERS OF RELIGIOUS OR-*
 21 *DERS, AND CHRISTIAN SCIENCE PRACTITIONERS.*—
 22 *Paragraph (3) of section 1402(e) is amended by strik-*
 23 *ing “whichever of the following dates is later: (A)”*

1 *and by striking “; or (B)” and all that follows and*
 2 *by inserting a period.*

3 (65) *WITHHOLDING OF TAX ON NONRESIDENT*
 4 *ALIENS.—The first sentence of subsection (b) of sec-*
 5 *tion 1441 and the first sentence of paragraph (5) of*
 6 *section 1441(c) are each amended by striking “gains*
 7 *subject to tax” and all that follows through “October*
 8 *4, 1966” and inserting “and gains subject to tax*
 9 *under section 871(a)(1)(D)”.*

10 (66) *AFFILIATED GROUP DEFINED.—Subpara-*
 11 *graph (A) of section 1504(a)(3) is amended by strik-*
 12 *ing “for a taxable year which includes any period*
 13 *after December 31, 1984” in clause (i) and by strik-*
 14 *ing “in a taxable year beginning after December 31,*
 15 *1984” in clause (ii).*

16 (67) *DISALLOWANCE OF THE BENEFITS OF THE*
 17 *GRADUATED CORPORATE RATES AND ACCUMULATED*
 18 *EARNINGS CREDIT.—*

19 (A) *Subsection (a) of section 1551 is*
 20 *amended by striking paragraph (1) and by re-*
 21 *designating paragraphs (2) and (3) as para-*
 22 *graphs (1) and (2), respectively.*

23 (B) *Section 1551(b) is amended—*

24 (i) *by striking “or (2)” in paragraph*
 25 (1), *and*

1 (ii) by striking “(a)(3)” in paragraph
2 (2) and inserting “(a)(2)”.

3 (68) *DEFINITION OF WAGES.*—Section 3121(b) is
4 amended by striking paragraph (17).

5 (69) *CREDITS AGAINST TAX.*—

6 (A) Paragraph (4) of section 3302(f) is
7 amended by striking “subsection—” and all that
8 follows through “(A) *IN GENERAL.*—”, by strik-
9 ing subparagraph (B), by redesignating clauses
10 (i) and (ii) as subparagraphs (A) and (B), re-
11 spectively, and by moving the text of such sub-
12 paragraphs (as so redesignated) 2 ems to the left.

13 (B) Paragraph (5) of section 3302(f) is
14 amended by striking subparagraphs (D) and by
15 redesignating subparagraph (E) as subpara-
16 graph (D).

17 (70) *DOMESTIC SERVICE EMPLOYMENT TAXES.*—
18 Section 3510(b) is amended by striking paragraph
19 (4).

20 (71) *TAX ON FUEL USED IN COMMERCIAL TRANS-*
21 *PORTATION ON INLAND WATERWAYS.*—Section
22 4042(b)(2)(A) is amended to read as follows:

23 “(A) *The Inland Waterways Trust Fund fi-*
24 *nancing rate is 20 cents per gallon.*”.

1 (72) *TRANSPORTATION BY AIR.*—Section 4261(e)
2 *is amended—*

3 (A) *in paragraph (1) by striking subpara-*
4 *graph (C), and*

5 (B) *by striking paragraph (5).*

6 (73) *TAXES ON FAILURE TO DISTRIBUTE IN-*
7 *COME.*—Section 4942 *is amended—*

8 (A) *by striking subsection (f)(2)(D),*

9 (B) *in subsection (g)(2)(A) by striking “For*
10 *all taxable years beginning on or after January*
11 *1, 1975, subject” and inserting “Subject”,*

12 (C) *in subsection (g) by striking paragraph*
13 *(4), and*

14 (D) *in subsection (i)(2) by striking “begin-*
15 *ning after December 31, 1969, and”.*

16 (74) *TAXES ON TAXABLE EXPENDITURES.*—Sec-
17 *tion 4945(f) is amended by striking “(excluding there-*
18 *from any preceding taxable year which begins before*
19 *January 1, 1970)”.*

20 (75) *RETURNS.*—Subsection (a) of section 6039D
21 *is amended by striking “beginning after December 31,*
22 *1984,”.*

23 (76) *INFORMATION RETURNS.*—Subsection (c) of
24 *section 6060 is amended by striking “year” and all*
25 *that follows and inserting “year.”.*

1 (77) *ABATEMENTS*.—Section 6404(f) is amended
2 by striking paragraph (3).

3 (78) *FAILURE BY CORPORATION TO PAY ESTI-*
4 *MATED INCOME TAX*.—Clause (i) of section
5 6655(g)(4)(A) is amended by striking “(or the cor-

6 responding provisions of prior law)”.
7

8 (79) *RETIREMENT*.—Section 7447(i)(3)(B)(ii) is
9 amended by striking “at 4 percent per annum to De-

10 cember 31, 1947, and at 3 percent per annum there-

11 after”, and inserting “at 3 percent per annum”.
12 (80) *ANNUITIES TO SURVIVING SPOUSES AND DE-*

13 (A) Paragraph (2) of section 7448(a) is
14 amended by striking “or under section 1106 of
15 the Internal Revenue Code of 1939” and by
16 striking “or pursuant to section 1106(d) of the
17 Internal Revenue Code of 1939”.

18 (B) Subsection (g) of section 7448 is
19 amended by striking “or other than pursuant to
20 section 1106 of the Internal Revenue Code of
21 1939”.

22 (C) Subsections (g), (j)(1), and (j)(2) of sec-
23 tion 7448 are each amended by striking “at 4
24 percent per annum to December 31, 1947, and at

1 3 percent per annum thereafter” and inserting
2 “at 3 percent per annum”.

3 (81) *MERCHANT MARINE CAPITAL CONSTRUCTION*
4 *FUNDS.*—Paragraph (4) of section 7518(g) is amend-
5 ed by striking “any nonqualified withdrawal” and all
6 that follows through “shall be determined” and insert-
7 ing “any nonqualified withdrawal shall be deter-
8 mined”.

9 (82) *VALUATION TABLES.*—Paragraph (3) of sec-
10 tion 7520(c) is amended—

11 (A) by striking “Not later than December
12 31, 1989, the” and inserting “The”, and

13 (B) by striking “thereafter” in the last sen-
14 tence thereof.

15 (83) *ADMINISTRATION AND COLLECTION OF*
16 *TAXES IN POSSESSIONS.*—Section 7651 is amended by
17 striking paragraph (4) and by redesignating para-
18 graph (5) as paragraph (4).

19 (84) *DEFINITION OF EMPLOYEE.*—(A) Section
20 7701(a)(20) is amended by striking “chapter 21” and
21 all that follows and inserting “chapter 21.”.

22 (b) *EFFECTIVE DATE.*—

23 (1) *GENERAL RULE.*—Except as otherwise pro-
24 vided in paragraph (2), the amendments made by

1 *subsection (a) shall take effect on the date of enact-*
2 *ment of this Act.*

3 (2) *SAVINGS PROVISION.—If—*

4 (A) *any provision amended or repealed by*
5 *subsection (a) applied to—*

6 (i) *any transaction occurring before*
7 *the date of the enactment of this Act,*

8 (ii) *any property acquired before such*
9 *date of enactment, or*

10 (iii) *any item of income, loss, deduc-*
11 *tion, or credit taken into account before*
12 *such date of enactment, and*

13 (B) *the treatment of such transaction, prop-*
14 *erty, or item under such provision would (with-*
15 *out regard to the amendments made by sub-*
16 *section (a)) affect the liability for tax for periods*
17 *ending after such date of enactment,*

18 *nothing in the amendments made by subsection (a)*
19 *shall be construed to affect the treatment of such*
20 *transaction, property, or item for purposes of deter-*
21 *mining liability for tax for periods ending after such*
22 *date of enactment.*

1 **TITLE VI—REVENUE**
 2 **PROVISIONS**
 3 **Subtitle A—Provisions Designed To**
 4 **Curtail Tax Shelters**

5 **SEC. 601. PENALTY FOR FAILING TO DISCLOSE REPORT-**
 6 **ABLE TRANSACTION.**

7 (a) *IN GENERAL.*—Part I of subchapter B of chapter
 8 68 (relating to assessable penalties) is amended by inserting
 9 after section 6707 the following new section:

10 **“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-**
 11 **ABLE TRANSACTION INFORMATION WITH RE-**
 12 **TURN OR STATEMENT.**

13 “(a) *IMPOSITION OF PENALTY.*—Any person who fails
 14 to include on any return or statement any information with
 15 respect to a reportable transaction which is required under
 16 section 6011 to be included with such return or statement
 17 shall pay a penalty in the amount determined under sub-
 18 section (b).

19 “(b) *AMOUNT OF PENALTY.*—

20 “(1) *IN GENERAL.*—Except as provided in para-
 21 graphs (2) and (3), the amount of the penalty under
 22 subsection (a) shall be \$50,000.

23 “(2) *LISTED TRANSACTION.*—The amount of the
 24 penalty under subsection (a) with respect to a listed
 25 transaction shall be \$100,000.

1 “(3) *INCREASE IN PENALTY FOR LARGE ENTITIES*
2 *AND HIGH NET WORTH INDIVIDUALS.*—

3 “(A) *IN GENERAL.*—*In the case of a failure*
4 *under subsection (a) by—*

5 “(i) *a large entity, or*

6 “(ii) *a high net worth individual,*
7 *the penalty under paragraph (1) or (2) shall be*
8 *twice the amount determined without regard to*
9 *this paragraph.*

10 “(B) *LARGE ENTITY.*—*For purposes of sub-*
11 *paragraph (A), the term ‘large entity’ means,*
12 *with respect to any taxable year, a person (other*
13 *than a natural person) with gross receipts in ex-*
14 *cess of \$10,000,000 for the taxable year in which*
15 *the reportable transaction occurs or the pre-*
16 *ceding taxable year. Rules similar to the rules of*
17 *paragraph (2) and subparagraphs (B), (C), and*
18 *(D) of paragraph (3) of section 448(c) shall*
19 *apply for purposes of this subparagraph.*

20 “(C) *HIGH NET WORTH INDIVIDUAL.*—*For*
21 *purposes of subparagraph (A), the term ‘high net*
22 *worth individual’ means, with respect to a re-*
23 *portable transaction, a natural person whose net*
24 *worth exceeds \$2,000,000 immediately before the*
25 *transaction.*

1 “(c) *DEFINITIONS.*—*For purposes of this section—*

2 “(1) *REPORTABLE TRANSACTION.*—*The term ‘re-*
 3 *portable transaction’ means any transaction with re-*
 4 *spect to which information is required to be included*
 5 *with a return or statement because, as determined*
 6 *under regulations prescribed under section 6011, such*
 7 *transaction is of a type which the Secretary deter-*
 8 *mines as having a potential for tax avoidance or eva-*
 9 *sion.*

10 “(2) *LISTED TRANSACTION.*—*Except as provided*
 11 *in regulations, the term ‘listed transaction’ means a*
 12 *reportable transaction which is the same as, or sub-*
 13 *stantially similar to, a transaction specifically identi-*
 14 *fied by the Secretary as a tax avoidance transaction*
 15 *for purposes of section 6011.*

16 “(d) *AUTHORITY TO RESCIND PENALTY.*—

17 “(1) *IN GENERAL.*—*The Commissioner of Inter-*
 18 *nal Revenue may rescind all or any portion of any*
 19 *penalty imposed by this section with respect to any*
 20 *violation if—*

21 “(A) *the violation is with respect to a re-*
 22 *portable transaction other than a listed trans-*
 23 *action,*

1 “(B) the person on whom the penalty is im-
2 posed has a history of complying with the re-
3 quirements of this title,

4 “(C) it is shown that the violation is due to
5 an unintentional mistake of fact;

6 “(D) imposing the penalty would be against
7 equity and good conscience, and

8 “(E) rescinding the penalty would promote
9 compliance with the requirements of this title
10 and effective tax administration.

11 “(2) *DISCRETION.*—The exercise of authority
12 under paragraph (1) shall be at the sole discretion of
13 the Commissioner and may be delegated only to the
14 head of the Office of Tax Shelter Analysis. The Com-
15 missioner, in the Commissioner’s sole discretion, may
16 establish a procedure to determine if a penalty should
17 be referred to the Commissioner or the head of such
18 Office for a determination under paragraph (1).

19 “(3) *NO APPEAL.*—Notwithstanding any other
20 provision of law, any determination under this sub-
21 section may not be reviewed in any administrative or
22 judicial proceeding.

23 “(4) *RECORDS.*—If a penalty is rescinded under
24 paragraph (1), the Commissioner shall place in the
25 file in the Office of the Commissioner the opinion of

1 *the Commissioner or the head of the Office of Tax*
 2 *Shelter Analysis with respect to the determination,*
 3 *including—*

4 *“(A) the facts and circumstances of the*
 5 *transaction,*

6 *“(B) the reasons for the rescission, and*

7 *“(C) the amount of the penalty rescinded.*

8 *“(5) REPORT.—The Commissioner shall each*
 9 *year report to the Committee on Ways and Means of*
 10 *the House of Representatives and the Committee on*
 11 *Finance of the Senate—*

12 *“(A) a summary of the total number and*
 13 *aggregate amount of penalties imposed, and re-*
 14 *scinded, under this section, and*

15 *“(B) a description of each penalty rescinded*
 16 *under this subsection and the reasons therefor.*

17 *“(e) PENALTY REPORTED TO SEC.—In the case of a*
 18 *person—*

19 *“(1) which is required to file periodic reports*
 20 *under section 13 or 15(d) of the Securities Exchange*
 21 *Act of 1934 or is required to be consolidated with an-*
 22 *other person for purposes of such reports, and*

23 *“(2) which—*

1 “(A) is required to pay a penalty under
 2 this section with respect to a listed transaction,
 3 or

4 “(B) is required to pay a penalty under sec-
 5 tion 6662A with respect to any reportable trans-
 6 action at a rate prescribed under section
 7 6662A(c),

8 the requirement to pay such penalty shall be disclosed in
 9 such reports filed by such person for such periods as the
 10 Secretary shall specify. Failure to make a disclosure in ac-
 11 cordance with the preceding sentence shall be treated as a
 12 failure to which the penalty under subsection (b)(2) applies.

13 “(f) COORDINATION WITH OTHER PENALTIES.—The
 14 penalty imposed by this section is in addition to any pen-
 15 alty imposed under this title.”.

16 (b) CONFORMING AMENDMENT.—The table of sections
 17 for part I of subchapter B of chapter 68 is amended by
 18 inserting after the item relating to section 6707 the fol-
 19 lowing:

“Sec. 6707A. Penalty for failure to include reportable transaction
 information with return or statement.”.

20 (c) EFFECTIVE DATE.—The amendments made by this
 21 section shall apply to returns and statements the due date
 22 for which is after the date of the enactment of this Act.

1 **SEC. 602. ACCURACY-RELATED PENALTY FOR LISTED**
 2 **TRANSACTIONS AND OTHER REPORTABLE**
 3 **TRANSACTIONS HAVING A SIGNIFICANT TAX**
 4 **AVOIDANCE PURPOSE.**

5 (a) *IN GENERAL.*—Subchapter A of chapter 68 is
 6 amended by inserting after section 6662 the following new
 7 section:

8 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY**
 9 **ON UNDERSTATEMENTS WITH RESPECT TO**
 10 **REPORTABLE TRANSACTIONS.**

11 “(a) *IMPOSITION OF PENALTY.*—If a taxpayer has a
 12 reportable transaction understatement for any taxable year,
 13 there shall be added to the tax an amount equal to 20 per-
 14 cent of the amount of such understatement.

15 “(b) *REPORTABLE TRANSACTION UNDERSTATE-*
 16 *MENT.*—For purposes of this section—

17 “(1) *IN GENERAL.*—The term ‘reportable trans-
 18 action understatement’ means the sum of—

19 “(A) the product of—

20 “(i) the amount of the increase (if any)
 21 in taxable income which results from a dif-
 22 ference between the proper tax treatment of
 23 an item to which this section applies and
 24 the taxpayer’s treatment of such item (as
 25 shown on the taxpayer’s return of tax), and

1 “(ii) the highest rate of tax imposed by
2 section 1 (section 11 in the case of a tax-
3 payer which is a corporation), and

4 “(B) the amount of the decrease (if any) in
5 the aggregate amount of credits determined
6 under subtitle A which results from a difference
7 between the taxpayer’s treatment of an item to
8 which this section applies (as shown on the tax-
9 payer’s return of tax) and the proper tax treat-
10 ment of such item.

11 For purposes of subparagraph (A), any reduction of
12 the excess of deductions allowed for the taxable year
13 over gross income for such year, and any reduction
14 in the amount of capital losses which would (without
15 regard to section 1211) be allowed for such year, shall
16 be treated as an increase in taxable income.

17 “(2) ITEMS TO WHICH SECTION APPLIES.—This
18 section shall apply to any item which is attributable
19 to—

20 “(A) any listed transaction, and

21 “(B) any reportable transaction (other than
22 a listed transaction) if a significant purpose of
23 such transaction is the avoidance or evasion of
24 Federal income tax.

1 “(c) *HIGHER PENALTY FOR NONDISCLOSED LISTED*
 2 *AND OTHER AVOIDANCE TRANSACTIONS.*—

3 “(1) *IN GENERAL.*—Subsection (a) shall be ap-
 4 plied by substituting ‘30 percent’ for ‘20 percent’ with
 5 respect to the portion of any reportable transaction
 6 understatement with respect to which the requirement
 7 of section 6664(d)(2)(A) is not met.

8 “(2) *RULES APPLICABLE TO ASSERTION AND*
 9 *COMPROMISE OF PENALTY.*—

10 “(A) *IN GENERAL.*—Only upon the ap-
 11 proval by the Chief Counsel for the Internal Rev-
 12 enue Service or the Chief Counsel’s delegate at
 13 the national office of the Internal Revenue Serv-
 14 ice may a penalty to which paragraph (1) ap-
 15 plies be included in a 1st letter of proposed defi-
 16 ciency which allows the taxpayer an opportunity
 17 for administrative review in the Internal Rev-
 18 enue Service Office of Appeals. If such a letter is
 19 provided to the taxpayer, only the Commissioner
 20 of Internal Revenue may compromise all or any
 21 portion of such penalty.

22 “(B) *APPLICABLE RULES.*—The rules of
 23 paragraphs (2), (3), (4), and (5) of section
 24 6707A(d) shall apply for purposes of subpara-
 25 graph (A).

1 “(d) *DEFINITIONS OF REPORTABLE AND LISTED*
 2 *TRANSACTIONS.*—*For purposes of this section, the terms ‘re-*
 3 *portable transaction’ and ‘listed transaction’ have the re-*
 4 *spective meanings given to such terms by section 6707A(c).*

5 “(e) *SPECIAL RULES.*—

6 “(1) *COORDINATION WITH PENALTIES, ETC., ON*
 7 *OTHER UNDERSTATEMENTS.*—*In the case of an under-*
 8 *statement (as defined in section 6662(d)(2))—*

9 “(A) *the amount of such understatement*
 10 *(determined without regard to this paragraph)*
 11 *shall be increased by the aggregate amount of re-*
 12 *portable transaction understatements for pur-*
 13 *poses of determining whether such understate-*
 14 *ment is a substantial understatement under sec-*
 15 *tion 6662(d)(1), and*

16 “(B) *the addition to tax under section*
 17 *6662(a) shall apply only to the excess of the*
 18 *amount of the substantial understatement (if*
 19 *any) after the application of subparagraph (A)*
 20 *over the aggregate amount of reportable trans-*
 21 *action understatements.*

22 “(2) *COORDINATION WITH OTHER PENALTIES.*—

23 “(A) *APPLICATION OF FRAUD PENALTY.*—
 24 *References to an underpayment in section 6663*

1 *shall be treated as including references to a re-*
 2 *portable transaction understatement.*

3 “(B) *NO DOUBLE PENALTY.*—*This section*
 4 *shall not apply to any portion of an understate-*
 5 *ment on which a penalty is imposed under sec-*
 6 *tion 6663.*

7 “(3) *SPECIAL RULE FOR AMENDED RETURNS.*—
 8 *Except as provided in regulations, in no event shall*
 9 *any tax treatment included with an amendment or*
 10 *supplement to a return of tax be taken into account*
 11 *in determining the amount of any reportable trans-*
 12 *action understatement if the amendment or supple-*
 13 *ment is filed after the earlier of the date the taxpayer*
 14 *is first contacted by the Secretary regarding the ex-*
 15 *amination of the return or such other date as is speci-*
 16 *fied by the Secretary.*

17 “(4) *CROSS REFERENCE.*—

**“For reporting of section 6662A(c) penalty to the
 Securities and Exchange Commission, see section
 6707A(e).”.**

18 (b) *DETERMINATION OF OTHER UNDERSTATE-*
 19 *MENTS.*—*Subparagraph (A) of section 6662(d)(2) is*
 20 *amended by adding at the end the following flush sentence:*

21 *“The excess under the preceding sentence shall be*
 22 *determined without regard to items to which sec-*
 23 *tion 6662A applies.”.*

24 (c) *REASONABLE CAUSE EXCEPTION.*—

1 (1) *IN GENERAL.*—Section 6664 is amended by
2 adding at the end the following new subsection:

3 “(d) *REASONABLE CAUSE EXCEPTION FOR REPORT-*
4 *ABLE TRANSACTION UNDERSTATEMENTS.*—

5 “(1) *IN GENERAL.*—No penalty shall be imposed
6 under section 6662A with respect to any portion of a
7 reportable transaction understatement if it is shown
8 that there was a reasonable cause for such portion
9 and that the taxpayer acted in good faith with respect
10 to such portion.

11 “(2) *SPECIAL RULES.*—Paragraph (1) shall not
12 apply to any reportable transaction understatement
13 unless—

14 “(A) the relevant facts affecting the tax
15 treatment of the item are adequately disclosed in
16 accordance with the regulations prescribed under
17 section 6011,

18 “(B) there is or was substantial authority
19 for such treatment, and

20 “(C) the taxpayer reasonably believed that
21 such treatment was more likely than not the
22 proper treatment.

23 A taxpayer failing to adequately disclose in accord-
24 ance with section 6011 shall be treated as meeting the

1 *requirements of subparagraph (A) if the penalty for*
 2 *such failure was rescinded under section 6707A(d).*

3 “(3) *RULES RELATING TO REASONABLE BE-*
 4 *LIEF.—For purposes of paragraph (2)(C)—*

5 “(A) *IN GENERAL.—A taxpayer shall be*
 6 *treated as having a reasonable belief with respect*
 7 *to the tax treatment of an item only if such*
 8 *belief—*

9 “(i) *is based on the facts and law that*
 10 *exist at the time the return of tax which in-*
 11 *cludes such tax treatment is filed, and*

12 “(ii) *relates solely to the taxpayer’s*
 13 *chances of success on the merits of such*
 14 *treatment and does not take into account*
 15 *the possibility that a return will not be au-*
 16 *dated, such treatment will not be raised on*
 17 *audit, or such treatment will be resolved*
 18 *through settlement if it is raised.*

19 “(B) *CERTAIN OPINIONS MAY NOT BE RE-*
 20 *LIED UPON.—*

21 “(i) *IN GENERAL.—An opinion of a*
 22 *tax advisor may not be relied upon to estab-*
 23 *lish the reasonable belief of a taxpayer if—*

24 “(I) *the tax advisor is described*
 25 *in clause (ii), or*

1 “(II) the opinion is described in
2 clause (iii).

3 “(ii) *DISQUALIFIED TAX ADVISORS*.—A
4 tax advisor is described in this clause if the
5 tax advisor—

6 “(I) is a material advisor (within
7 the meaning of section 6111(b)(1)) who
8 participates in the organization, man-
9 agement, promotion, or sale of the
10 transaction or who is related (within
11 the meaning of section 267(b) or
12 707(b)(1)) to any person who so par-
13 ticipates,

14 “(II) is compensated directly or
15 indirectly by a material advisor with
16 respect to the transaction,

17 “(III) has a fee arrangement with
18 respect to the transaction which is con-
19 tingent on all or part of the intended
20 tax benefits from the transaction being
21 sustained, or

22 “(IV) as determined under regula-
23 tions prescribed by the Secretary, has a
24 disqualifying financial interest with
25 respect to the transaction.

1 “(iii) *DISQUALIFIED OPINIONS.*—*For*
 2 *purposes of clause (i), an opinion is dis-*
 3 *qualified if the opinion—*

4 *“(I) is based on unreasonable fac-*
 5 *tual or legal assumptions (including*
 6 *assumptions as to future events),*

7 *“(II) unreasonably relies on rep-*
 8 *resentations, statements, findings, or*
 9 *agreements of the taxpayer or any*
 10 *other person,*

11 *“(III) does not identify and con-*
 12 *sider all relevant facts, or*

13 *“(IV) fails to meet any other re-*
 14 *quirement as the Secretary may pre-*
 15 *scribe.”.*

16 (2) *CONFORMING AMENDMENT.*—*The heading for*
 17 *subsection (c) of section 6664 is amended by inserting*
 18 *“FOR UNDERPAYMENTS” after “EXCEPTION”.*

19 (d) *CONFORMING AMENDMENTS.*—

20 (1) *Subparagraph (C) of section 461(i)(3) is*
 21 *amended by striking “section 6662(d)(2)(C)(iii)” and*
 22 *inserting “section 1274(b)(3)(C)”.*

23 (2) *Paragraph (3) of section 1274(b) is*
 24 *amended—*

1 (A) by striking “(as defined in section
2 6662(d)(2)(C)(iii))” in subparagraph (B)(i), and
3 (B) by adding at the end the following new
4 subparagraph:

5 “(C) *TAX SHELTER*.—For purposes of sub-
6 paragraph (B), the term ‘tax shelter’ means—

7 “(i) a partnership or other entity,

8 “(ii) any investment plan or arrange-
9 ment, or

10 “(iii) any other plan or arrangement,
11 if a significant purpose of such partnership, en-
12 tity, plan, or arrangement is the avoidance or
13 evasion of Federal income tax.”.

14 (3) Section 6662(d)(2) is amended by striking
15 subparagraphs (C) and (D).

16 (4) Section 6664(c)(1) is amended by striking
17 “this part” and inserting “section 6662 or 6663”.

18 (5) Subsection (b) of section 7525 is amended by
19 striking “section 6662(d)(2)(C)(iii)” and inserting
20 “section 1274(b)(3)(C)”.

21 (6)(A) The heading for section 6662 is amended
22 to read as follows:

1 **“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY**
 2 **ON UNDERPAYMENTS.”**

3 *(B) The table of sections for part II of sub-*
 4 *chapter A of chapter 68 is amended by striking the*
 5 *item relating to section 6662 and inserting the fol-*
 6 *lowing new items:*

“Sec. 6662. Imposition of accuracy-related penalty on underpay-
ments.

“Sec. 6662A. Imposition of accuracy-related penalty on understate-
ments with respect to reportable transactions.”

7 *(e) EFFECTIVE DATE.—The amendments made by this*
 8 *section shall apply to taxable years ending after the date*
 9 *of the enactment of this Act.*

10 **SEC. 603. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**
 11 **MENT PENALTY FOR NONREPORTABLE**
 12 **TRANSACTIONS.**

13 *(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORA-*
 14 *TIONS.—Section 6662(d)(1)(B) (relating to special rule for*
 15 *corporations) is amended to read as follows:*

16 *“(B) SPECIAL RULE FOR CORPORATIONS.—*
 17 *In the case of a corporation other than an S cor-*
 18 *poration or a personal holding company (as de-*
 19 *finied in section 542), there is a substantial un-*
 20 *derstatement of income tax for any taxable year*
 21 *if the amount of the understatement for the tax-*
 22 *able year exceeds the lesser of—*

1 “(i) 10 percent of the tax required to
 2 be shown on the return for the taxable year
 3 (or, if greater, \$10,000), or
 4 “(ii) \$10,000,000.”.

5 (b) *REDUCTION FOR UNDERSTATEMENT OF TAXPAYER*
 6 *DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.*—

7 (1) *IN GENERAL.*—Section 6662(d)(2)(B)(i) (re-
 8 lating to substantial authority) is amended to read as
 9 follows:

10 “(i) the tax treatment of any item by
 11 the taxpayer if the taxpayer had reasonable
 12 belief that the tax treatment was more likely
 13 than not the proper treatment, or”.

14 (2) *CONFORMING AMENDMENT.*—Section 6662(d)
 15 is amended by adding at the end the following new
 16 paragraph:

17 “(3) *SECRETARIAL LIST.*—For purposes of this
 18 subsection, section 6664(d)(2), and section 6694(a)(1),
 19 the Secretary may prescribe a list of positions for
 20 which the Secretary believes there is not substantial
 21 authority or there is no reasonable belief that the tax
 22 treatment is more likely than not the proper tax
 23 treatment. Such list (and any revisions thereof) shall
 24 be published in the Federal Register or the Internal
 25 Revenue Bulletin.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to taxable years beginning after the date*
 3 *of the enactment of this Act.*

4 **SEC. 604. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**
 5 **PRIVILEGES RELATING TO TAXPAYER COM-**
 6 **MUNICATIONS.**

7 (a) *IN GENERAL.*—*Section 7525(b) (relating to section*
 8 *not to apply to communications regarding corporate tax*
 9 *shelters) is amended to read as follows:*

10 “(b) *SECTION NOT TO APPLY TO COMMUNICATIONS*
 11 *REGARDING TAX SHELTERS.*—*The privilege under sub-*
 12 *section (a) shall not apply to any written communication*
 13 *which is—*

14 “(1) *between a federally authorized tax practi-*
 15 *tioner and—*

16 “(A) *any person,*

17 “(B) *any director, officer, employee, agent,*
 18 *or representative of the person, or*

19 “(C) *any other person holding a capital or*
 20 *profits interest in the person, and*

21 “(2) *in connection with the promotion of the di-*
 22 *rect or indirect participation of the person in any tax*
 23 *shelter (as defined in section 1274(b)(3)(C)).”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to communications made on or after the*
 3 *date of the enactment of this Act.*

4 **SEC. 605. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

5 (a) *IN GENERAL.*—*Section 6111 (relating to registra-*
 6 *tion of tax shelters) is amended to read as follows:*

7 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

8 “(a) *IN GENERAL.*—*Each material advisor with re-*
 9 *spect to any reportable transaction shall make a return (in*
 10 *such form as the Secretary may prescribe) setting forth—*

11 “(1) *information identifying and describing the*
 12 *transaction,*

13 “(2) *information describing any potential tax*
 14 *benefits expected to result from the transaction, and*

15 “(3) *such other information as the Secretary*
 16 *may prescribe.*

17 *Such return shall be filed not later than the date specified*
 18 *by the Secretary.*

19 “(b) *DEFINITIONS.*—*For purposes of this section—*

20 “(1) *MATERIAL ADVISOR.*—

21 “(A) *IN GENERAL.*—*The term ‘material ad-*
 22 *visor’ means any person—*

23 “(i) *who provides any material aid,*
 24 *assistance, or advice with respect to orga-*
 25 *nizing, managing, promoting, selling, im-*

1 *plementing, or carrying out any reportable*
 2 *transaction, and*

3 *“(ii) who directly or indirectly derives*
 4 *gross income in excess of the threshold*
 5 *amount for such aid, assistance, or advice.*

6 *“(B) THRESHOLD AMOUNT.—For purposes*
 7 *of subparagraph (A), the threshold amount is—*

8 *“(i) \$50,000 in the case of a reportable*
 9 *transaction substantially all of the tax bene-*
 10 *fits from which are provided to natural per-*
 11 *sons, and*

12 *“(ii) \$250,000 in any other case.*

13 *“(2) REPORTABLE TRANSACTION.—The term ‘re-*
 14 *portable transaction’ has the meaning given to such*
 15 *term by section 6707A(c).*

16 *“(c) REGULATIONS.—The Secretary may prescribe reg-*
 17 *ulations which provide—*

18 *“(1) that only 1 person shall be required to meet*
 19 *the requirements of subsection (a) in cases in which*
 20 *2 or more persons would otherwise be required to meet*
 21 *such requirements,*

22 *“(2) exemptions from the requirements of this*
 23 *section, and*

24 *“(3) such rules as may be necessary or appro-*
 25 *priate to carry out the purposes of this section.”.*

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *The item relating to section 6111 in the table*
 3 *of sections for subchapter B of chapter 61 is amended*
 4 *to read as follows:*

“Sec. 6111. Disclosure of reportable transactions.”.

5 (2)(A) *So much of section 6112 as precedes sub-*
 6 *section (c) thereof is amended to read as follows:*

7 **“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-**
 8 **ACTIONS MUST KEEP LISTS OF ADVISEES.**

9 “(a) *IN GENERAL.*—*Each material advisor (as defined*
 10 *in section 6111) with respect to any reportable transaction*
 11 *(as defined in section 6707A(c)) shall maintain, in such*
 12 *manner as the Secretary may by regulations prescribe, a*
 13 *list—*

14 “(1) *identifying each person with respect to*
 15 *whom such advisor acted as such a material advisor*
 16 *with respect to such transaction, and*

17 “(2) *containing such other information as the*
 18 *Secretary may by regulations require.*

19 *This section shall apply without regard to whether a mate-*
 20 *rial advisor is required to file a return under section 6111*
 21 *with respect to such transaction.”.*

22 (B) *Section 6112 is amended by redesignating*
 23 *subsection (c) as subsection (b).*

24 (C) *Section 6112(b), as redesignated by subpara-*
 25 *graph (B), is amended—*

1 (i) by inserting “written” before “request”
 2 in paragraph (1)(A), and

3 (ii) by striking “shall prescribe” in para-
 4 graph (2) and inserting “may prescribe”.

5 (D) The item relating to section 6112 in the
 6 table of sections for subchapter B of chapter 61 is
 7 amended to read as follows:

“Sec. 6112. Material advisors of reportable transactions must keep
 lists of advisees.”.

8 (3)(A) The heading for section 6708 is amended
 9 to read as follows:

10 **“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES**
 11 **WITH RESPECT TO REPORTABLE TRANS-**
 12 **ACTIONS.”.**

13 (B) The item relating to section 6708 in the
 14 table of sections for part I of subchapter B of chapter
 15 68 is amended to read as follows:

“Sec. 6708. Failure to maintain lists of advisees with respect to re-
 reportable transactions.”.

16 (c) **REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM**
 17 **OF CONFIDENTIALITY.**—Subparagraph (A) of section
 18 6112(b)(1), as redesignated by subsection (b)(2)(B), is
 19 amended by adding at the end the following new flush sen-
 20 tence:

21 “For purposes of this section, the identity of any per-
 22 son on such list shall not be privileged.”.

23 (d) **EFFECTIVE DATE.**—

1 (1) *IN GENERAL.*—*Except as provided in para-*
 2 *graph (2), the amendments made by this section shall*
 3 *apply to transactions with respect to which material*
 4 *aid, assistance, or advice referred to in section*
 5 *6111(b)(1)(A)(i) of the Internal Revenue Code of 1986*
 6 *(as added by this section) is provided after the date*
 7 *of the enactment of this Act.*

8 (2) *NO CLAIM OF CONFIDENTIALITY AGAINST DIS-*
 9 *CLOSURE.*—*The amendment made by subsection (c)*
 10 *shall take effect as if included in the amendments*
 11 *made by section 142 of the Deficit Reduction Act of*
 12 *1984.*

13 **SEC. 606. MODIFICATIONS TO PENALTY FOR FAILURE TO**
 14 **REGISTER TAX SHELTERS.**

15 (a) *IN GENERAL.*—*Section 6707 (relating to failure to*
 16 *furnish information regarding tax shelters) is amended to*
 17 *read as follows:*

18 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**
 19 **ING REPORTABLE TRANSACTIONS.**

20 “(a) *IN GENERAL.*—*If a person who is required to file*
 21 *a return under section 6111(a) with respect to any report-*
 22 *able transaction—*

23 *“(1) fails to file such return on or before the date*
 24 *prescribed therefor, or*

1 “(2) *files false or incomplete information with*
 2 *the Secretary with respect to such transaction,*
 3 *such person shall pay a penalty with respect to such return*
 4 *in the amount determined under subsection (b).*

5 “(b) *AMOUNT OF PENALTY.—*

6 “(1) *IN GENERAL.—Except as provided in para-*
 7 *graph (2), the penalty imposed under subsection (a)*
 8 *with respect to any failure shall be \$50,000.*

9 “(2) *LISTED TRANSACTIONS.—The penalty im-*
 10 *posed under subsection (a) with respect to any listed*
 11 *transaction shall be an amount equal to the greater*
 12 *of—*

13 “(A) *\$200,000, or*

14 “(B) *50 percent of the gross income derived*
 15 *by such person with respect to aid, assistance, or*
 16 *advice which is provided with respect to the list-*
 17 *ed transaction before the date the return includ-*
 18 *ing the transaction is filed under section 6111.*

19 *Subparagraph (B) shall be applied by substituting*
 20 *‘75 percent’ for ‘50 percent’ in the case of an inten-*
 21 *tional failure or act described in subsection (a).*

22 “(c) *CERTAIN RULES TO APPLY.—The provisions of*
 23 *section 6707A(d) shall apply to any penalty imposed under*
 24 *this section.*

1 “(d) *REPORTABLE AND LISTED TRANSACTIONS.*—The
 2 terms ‘reportable transaction’ and ‘listed transaction’ have
 3 the respective meanings given to such terms by section
 4 6707A(c).”.

5 (b) *CLERICAL AMENDMENT.*—The item relating to sec-
 6 tion 6707 in the table of sections for part I of subchapter
 7 B of chapter 68 is amended by striking “tax shelters” and
 8 inserting “reportable transactions”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall apply to returns the due date for which is after
 11 the date of the enactment of this Act.

12 **SEC. 607. MODIFICATION OF PENALTY FOR FAILURE TO**
 13 **MAINTAIN LISTS OF INVESTORS.**

14 (a) *IN GENERAL.*—Subsection (a) of section 6708 is
 15 amended to read as follows:

16 “(a) *IMPOSITION OF PENALTY.*—

17 “(1) *IN GENERAL.*—If any person who is re-
 18 quired to maintain a list under section 6112(a) fails
 19 to make such list available upon written request to
 20 the Secretary in accordance with section
 21 6112(b)(1)(A) within 20 business days after the date
 22 of the Secretary’s request, such person shall pay a
 23 penalty of \$10,000 for each day of such failure after
 24 such 20th day.

1 “(2) *REASONABLE CAUSE EXCEPTION.*—No pen-
 2 alty shall be imposed by paragraph (1) with respect
 3 to the failure on any day if such failure is due to rea-
 4 sonable cause.”.

5 (b) *EFFECTIVE DATE.*—The amendment made by this
 6 section shall apply to requests made after the date of the
 7 enactment of this Act.

8 **SEC. 608. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN**
 9 **CONDUCT RELATED TO TAX SHELTERS AND**
 10 **REPORTABLE TRANSACTIONS.**

11 (a) *IN GENERAL.*—Section 7408 (relating to action to
 12 enjoin promoters of abusive tax shelters, etc.) is amended
 13 by redesignating subsection (c) as subsection (d) and by
 14 striking subsections (a) and (b) and inserting the following
 15 new subsections:

16 “(a) *AUTHORITY TO SEEK INJUNCTION.*—A civil ac-
 17 tion in the name of the United States to enjoin any person
 18 from further engaging in specified conduct may be com-
 19 menced at the request of the Secretary. Any action under
 20 this section shall be brought in the district court of the
 21 United States for the district in which such person resides,
 22 has his principal place of business, or has engaged in speci-
 23 fied conduct. The court may exercise its jurisdiction over
 24 such action (as provided in section 7402(a)) separate and

1 *apart from any other action brought by the United States*
 2 *against such person.*

3 “(b) *ADJUDICATION AND DECREE.*—*In any action*
 4 *under subsection (a), if the court finds—*

5 “(1) *that the person has engaged in any specified*
 6 *conduct, and*

7 “(2) *that injunctive relief is appropriate to pre-*
 8 *vent recurrence of such conduct,*
 9 *the court may enjoin such person from engaging in such*
 10 *conduct or in any other activity subject to penalty under*
 11 *this title.*

12 “(c) *SPECIFIED CONDUCT.*—*For purposes of this sec-*
 13 *tion, the term ‘specified conduct’ means any action, or fail-*
 14 *ure to take action, subject to penalty under section 6700,*
 15 *6701, 6707, or 6708.”.*

16 (b) *CONFORMING AMENDMENTS.*—

17 (1) *The heading for section 7408 is amended to*
 18 *read as follows:*

19 “**SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-**
 20 **LATED TO TAX SHELTERS AND REPORTABLE**
 21 **TRANSACTIONS.”.**

22 (2) *The table of sections for subchapter A of*
 23 *chapter 67 is amended by striking the item relating*
 24 *to section 7408 and inserting the following new item:*

“*Sec. 7408. Actions to enjoin specified conduct related to tax shelters and re-*
portable transactions.”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the day after the date of the en-*
 3 *actment of this Act.*

4 **SEC. 609. UNDERSTATEMENT OF TAXPAYER’S LIABILITY BY**
 5 **INCOME TAX RETURN PREPARER.**

6 (a) *STANDARDS CONFORMED TO TAXPAYER STAND-*
 7 *ARDS.*—*Section 6694(a) (relating to understatements due to*
 8 *unrealistic positions) is amended—*

9 (1) *by striking “realistic possibility of being sus-*
 10 *tained on its merits” in paragraph (1) and inserting*
 11 *“reasonable belief that the tax treatment in such posi-*
 12 *tion was more likely than not the proper treatment”,*

13 (2) *by striking “or was frivolous” in paragraph*
 14 *(3) and inserting “or there was no reasonable basis*
 15 *for the tax treatment of such position”, and*

16 (3) *by striking “UNREALISTIC” in the heading*
 17 *and inserting “IMPROPER”.*

18 (b) *AMOUNT OF PENALTY.*—*Section 6694 is*
 19 *amended—*

20 (1) *by striking “\$250” in subsection (a) and in-*
 21 *serting “\$1,000”, and*

22 (2) *by striking “\$1,000” in subsection (b) and*
 23 *inserting “\$5,000”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to documents prepared after the date*
 3 *of the enactment of this Act.*

4 **SEC. 610. REGULATION OF INDIVIDUALS PRACTICING BE-**
 5 **FORE THE DEPARTMENT OF TREASURY.**

6 (a) *CENSURE; IMPOSITION OF PENALTY.*—

7 (1) *IN GENERAL.*—*Section 330(b) of title 31,*
 8 *United States Code, is amended—*

9 (A) *by inserting “, or censure,” after “De-*
 10 *partment”, and*

11 (B) *by adding at the end the following new*
 12 *flush sentence:*

13 *“The Secretary may impose a monetary penalty on any*
 14 *representative described in the preceding sentence. If the*
 15 *representative was acting on behalf of an employer or any*
 16 *firm or other entity in connection with the conduct giving*
 17 *rise to such penalty, the Secretary may impose a monetary*
 18 *penalty on such employer, firm, or entity if it knew, or*
 19 *reasonably should have known, of such conduct. Such pen-*
 20 *alty shall not exceed the gross income derived (or to be de-*
 21 *rived) from the conduct giving rise to the penalty and may*
 22 *be in addition to, or in lieu of, any suspension, disbarment,*
 23 *or censure of the representative.”.*

1 (2) *EFFECTIVE DATE.*—*The amendments made*
 2 *by this subsection shall apply to actions taken after*
 3 *the date of the enactment of this Act.*

4 (b) *TAX SHELTER OPINIONS, ETC.*—*Section 330 of*
 5 *such title 31 is amended by adding at the end the following*
 6 *new subsection:*

7 “(d) *Nothing in this section or in any other provision*
 8 *of law shall be construed to limit the authority of the Sec-*
 9 *retary of the Treasury to impose standards applicable to*
 10 *the rendering of written advice with respect to any entity,*
 11 *transaction plan or arrangement, or other plan or arrange-*
 12 *ment, which is of a type which the Secretary determines*
 13 *as having a potential for tax avoidance or evasion.”.*

14 **SEC. 611. PENALTY ON PROMOTERS OF TAX SHELTERS.**

15 (a) *PENALTY ON PROMOTING ABUSIVE TAX SHEL-*
 16 *TERS.*—*Section 6700(a) is amended by adding at the end*
 17 *the following new sentence: “Notwithstanding the first sen-*
 18 *tence, if an activity with respect to which a penalty im-*
 19 *posed under this subsection involves a statement described*
 20 *in paragraph (2)(A), the amount of the penalty shall be*
 21 *equal to 50 percent of the gross income derived (or to be*
 22 *derived) from such activity by the person on which the pen-*
 23 *alty is imposed.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to activities after the date of the enact-*
 3 *ment of this Act.*

4 **SEC. 612. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**
 5 **FOR WHICH REQUIRED LISTED TRANS-**
 6 **ACTIONS NOT REPORTED.**

7 (a) *IN GENERAL.*—*Section 6501(c) (relating to excep-*
 8 *tions) is amended by adding at the end the following new*
 9 *paragraph:*

10 “(10) *LISTED TRANSACTIONS.*—*If a taxpayer*
 11 *fails to include on any return or statement for any*
 12 *taxable year any information with respect to a listed*
 13 *transaction (as defined in section 6707A(c)(2)) which*
 14 *is required under section 6011 to be included with*
 15 *such return or statement, the time for assessment of*
 16 *any tax imposed by this title with respect to such*
 17 *transaction shall not expire before the date which is*
 18 *1 year after the earlier of—*

19 “(A) *the date on which the Secretary is fur-*
 20 *nished the information so required; or*

21 “(B) *the date that a material advisor (as*
 22 *defined in section 6111) meets the requirements*
 23 *of section 6112 with respect to a request by the*
 24 *Secretary under section 6112(b) relating to such*
 25 *transaction with respect to such taxpayer.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to taxable years with respect to which*
 3 *the period for assessing a deficiency did not expire before*
 4 *the date of the enactment of this Act.*

5 **SEC. 613. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
 6 **DERPAYMENTS ATTRIBUTABLE TO TAX-MOTI-**
 7 **VATED TRANSACTIONS.**

8 (a) *IN GENERAL.*—*Section 163 (relating to deduction*
 9 *for interest) is amended by redesignating subsection (m) as*
 10 *subsection (n) and by inserting after subsection (l) the fol-*
 11 *lowing new subsection:*

12 “(m) *INTEREST ON UNPAID TAXES ATTRIBUTABLE TO*
 13 *NONDISCLOSED REPORTABLE TRANSACTIONS.*—*No deduc-*
 14 *tion shall be allowed under this chapter for any interest*
 15 *paid or accrued under section 6601 on any underpayment*
 16 *of tax which is attributable to the portion of any reportable*
 17 *transaction understatement (as defined in section*
 18 *6662A(b)) with respect to which the requirement of section*
 19 *6664(d)(2)(A) is not met.”.*

20 (b) *EFFECTIVE DATE.*—*The amendments made by this*
 21 *section shall apply to transactions in taxable years begin-*
 22 *ning after the date of the enactment of this Act.*

1 **SEC. 614. AUTHORIZATION OF APPROPRIATIONS FOR TAX**

2 **LAW ENFORCEMENT.**

3 *There is authorized to be appropriated \$300,000,000*
 4 *for each fiscal year beginning after September 30, 2003, for*
 5 *the purpose of carrying out tax law enforcement to combat*
 6 *tax avoidance transactions and other tax shelters, including*
 7 *the use of offshore financial accounts to conceal taxable in-*
 8 *come.*

9 **PART II—OTHER CORPORATE GOVERNANCE**

10 **PROVISIONS**

11 **SEC. 621. AFFIRMATION OF CONSOLIDATED RETURN REGU-**

12 **LATION AUTHORITY.**

13 *(a) IN GENERAL.—Section 1502 (relating to consoli-*
 14 *dated return regulations) is amended by adding at the end*
 15 *the following new sentence: “In prescribing such regula-*
 16 *tions, the Secretary may prescribe rules applicable to cor-*
 17 *porations filing consolidated returns under section 1501*
 18 *that are different from other provisions of this title that*
 19 *would apply if such corporations filed separate returns.”.*

20 *(b) RESULT NOT OVERTURNED.—Notwithstanding*
 21 *subsection (a), the Internal Revenue Code of 1986 shall be*
 22 *construed by treating Treasury regulation § 1.1502–*
 23 *20(c)(1)(iii) (as in effect on January 1, 2001) as being in-*
 24 *applicable to the type of factual situation in 255 F.3d 1357*
 25 *(Fed. Cir. 2001).*

1 (c) *EFFECTIVE DATE.*—*The provisions of this section*
2 *shall apply to taxable years beginning before, on, or after*
3 *the date of the enactment of this Act.*

4 **SEC. 622. DECLARATION BY CHIEF EXECUTIVE OFFICER RE-**
5 **LATING TO FEDERAL ANNUAL INCOME TAX**
6 **RETURN OF A CORPORATION.**

7 (a) *IN GENERAL.*—*The Federal annual tax return of*
8 *a corporation with respect to income shall also include a*
9 *declaration signed by the chief executive officer of such cor-*
10 *poration (or other such officer of the corporation as the Sec-*
11 *retary of the Treasury may designate if the corporation does*
12 *not have a chief executive officer), under penalties of per-*
13 *jury, that the corporation has in place processes and proce-*
14 *dures to ensure that such return complies with the Internal*
15 *Revenue Code of 1986 and that the chief executive officer*
16 *was provided reasonable assurance of the accuracy of all*
17 *material aspects of such return. The preceding sentence*
18 *shall not apply to any return of a regulated investment*
19 *company (within the meaning of section 851 of such Code).*

20 (b) *EFFECTIVE DATE.*—*This section shall apply to the*
21 *Federal annual tax return of a corporation with respect to*
22 *income for taxable years ending after the date of the enact-*
23 *ment of this Act.*

1 **SEC. 623. DENIAL OF DEDUCTION FOR CERTAIN FINES, PEN-**
 2 **ALTIES, AND OTHER AMOUNTS.**

3 (a) *IN GENERAL.*—Subsection (f) of section 162 (relat-
 4 ing to trade or business expenses) is amended to read as
 5 follows:

6 “(f) *FINES, PENALTIES, AND OTHER AMOUNTS.*—

7 “(1) *IN GENERAL.*—Except as provided in para-
 8 graph (2), no deduction otherwise allowable shall be
 9 allowed under this chapter for any amount paid or
 10 incurred (whether by suit, agreement, or otherwise)
 11 to, or at the direction of, a government or entity de-
 12 scribed in paragraph (4) in relation to the violation
 13 of any law or the investigation or inquiry by such
 14 government or entity into the potential violation of
 15 any law.

16 “(2) *EXCEPTION FOR AMOUNTS CONSTITUTING*
 17 *RESTITUTION.*—Paragraph (1) shall not apply to any
 18 amount which the taxpayer establishes constitutes res-
 19 titution (including remediation of property) for dam-
 20 age or harm caused by or which may be caused by
 21 the violation of any law or the potential violation of
 22 any law. This paragraph shall not apply to any
 23 amount paid or incurred as reimbursement to the
 24 government or entity for the costs of any investigation
 25 or litigation.

1 “(3) *EXCEPTION FOR AMOUNTS PAID OR IN-*
 2 *CURRED AS THE RESULT OF CERTAIN COURT OR-*
 3 *DEES.—Paragraph (1) shall not apply to any*
 4 *amount paid or incurred by order of a court in a suit*
 5 *in which no government or entity described in para-*
 6 *graph (4) is a party.*

7 “(4) *CERTAIN NONGOVERNMENTAL REGULATORY*
 8 *ENTITIES.—An entity is described in this paragraph*
 9 *if it is—*

10 “(A) *a nongovernmental entity which exer-*
 11 *cises self-regulatory powers (including imposing*
 12 *sanctions) in connection with a qualified board*
 13 *or exchange (as defined in section 1256(g)(7)), or*

14 “(B) *to the extent provided in regulations,*
 15 *a nongovernmental entity which exercises self-*
 16 *regulatory powers (including imposing sanc-*
 17 *tions) as part of performing an essential govern-*
 18 *mental function.*

19 “(5) *EXCEPTION FOR TAXES DUE.—Paragraph*
 20 *(1) shall not apply to any amount paid or incurred*
 21 *as taxes due.”.*

22 “(b) *EFFECTIVE DATE.—The amendment made by this*
 23 *section shall apply to amounts paid or incurred after April*
 24 *27, 2003, except that such amendment shall not apply to*
 25 *amounts paid or incurred under any binding order or*

1 *agreement entered into on or before April 27, 2003. Such*
 2 *exception shall not apply to an order or agreement requir-*
 3 *ing court approval unless the approval was obtained on or*
 4 *before April 27, 2003.*

5 **SEC. 624. DISALLOWANCE OF DEDUCTION FOR PUNITIVE**
 6 **DAMAGES.**

7 *(a) DISALLOWANCE OF DEDUCTION.—*

8 *(1) IN GENERAL.—Section 162(g) (relating to*
 9 *treble damage payments under the antitrust laws) is*
 10 *amended by adding at the end the following new*
 11 *paragraph:*

12 *“(2) PUNITIVE DAMAGES.—No deduction shall be*
 13 *allowed under this chapter for any amount paid or*
 14 *incurred for punitive damages in connection with*
 15 *any judgment in, or settlement of, any action. This*
 16 *paragraph shall not apply to punitive damages de-*
 17 *scribed in section 104(c).”.*

18 *(2) CONFORMING AMENDMENTS.—*

19 *(A) Section 162(g) is amended—*

20 *(i) by striking “If” and inserting:*

21 *“(1) TREBLE DAMAGES.—If”, and*

22 *(ii) by redesignating paragraphs (1)*
 23 *and (2) as subparagraphs (A) and (B), re-*
 24 *spectively.*

1 (B) *The heading for section 162(g) is*
 2 *amended by inserting “OR PUNITIVE DAMAGES”*
 3 *after “LAWS”.*

4 (b) *INCLUSION IN INCOME OF PUNITIVE DAMAGES*
 5 *PAID BY INSURER OR OTHERWISE.—*

6 (1) *IN GENERAL.—Part II of subchapter B of*
 7 *chapter 1 (relating to items specifically included in*
 8 *gross income) is amended by adding at the end the*
 9 *following new section:*

10 **“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-**
 11 **ANCE OR OTHERWISE.**

12 *“Gross income shall include any amount paid to or*
 13 *on behalf of a taxpayer as insurance or otherwise by reason*
 14 *of the taxpayer’s liability (or agreement) to pay punitive*
 15 *damages.”.*

16 (2) *REPORTING REQUIREMENTS.—Section 6041*
 17 *(relating to information at source) is amended by*
 18 *adding at the end the following new subsection:*

19 **“(f) SECTION TO APPLY TO PUNITIVE DAMAGES COM-**
 20 **PENSATION.—***This section shall apply to payments by a*
 21 *person to or on behalf of another person as insurance or*
 22 *otherwise by reason of the other person’s liability (or agree-*
 23 *ment) to pay punitive damages.”.*

1 (3) *CONFORMING AMENDMENT.*—*The table of sec-*
 2 *tions for part II of subchapter B of chapter 1 is*
 3 *amended by adding at the end the following new item:*

 “*Sec. 91. Punitive damages compensated by insurance or otherwise.*”.

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply to damages paid or incurred on or after*
 6 *the date of the enactment of this Act.*

7 **SEC. 625. INCREASE IN CRIMINAL MONETARY PENALTY FOR**
 8 **INDIVIDUALS TO THE AMOUNT OF THE TAX**
 9 **AT ISSUE.**

10 (a) *IN GENERAL.*—*Section 7206 (relating to fraud and*
 11 *false statements) is amended—*

12 (1) *by striking “Any person who—” and insert-*
 13 *ing “(a) IN GENERAL.—Any person who—”, and*

14 (2) *by adding at the end the following new sub-*
 15 *section:*

16 “(b) *INCREASE IN MONETARY LIMITATION FOR UN-*
 17 *DERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—*

18 *If any portion of any underpayment (as defined in section*
 19 *6664(a)) or overpayment (as defined in section 6203(a)) of*

20 *tax required to be shown on a return is attributable to*
 21 *fraudulent action described in subsection (a), the applicable*

22 *dollar amount under subsection (a) shall in no event be less*

23 *than an amount equal to such portion. A rule similar to*

24 *the rule under section 6663(b) shall apply for purposes of*
 25 *determining the portion so attributable.”.*

1 (b) *INCREASE IN PENALTIES.*—

2 (1) *ATTEMPT TO EVADE OR DEFEAT TAX.*—Section
3 7201 is amended—

4 (A) by striking “\$100,000” and inserting
5 “\$250,000”,

6 (B) by striking “\$500,000” and inserting
7 “\$1,000,000”, and

8 (C) by striking “5 years” and inserting “10
9 years”.

10 (2) *WILLFUL FAILURE TO FILE RETURN, SUPPLY*
11 *INFORMATION, OR PAY TAX.*—Section 7203 is
12 amended—

13 (A) in the first sentence—

14 (i) by striking “misdemeanor” and in-
15 serting “felony”, and

16 (ii) by striking “1 year” and inserting
17 “10 years”, and

18 (B) by striking the third sentence.

19 (3) *FRAUD AND FALSE STATEMENTS.*—Section
20 7206(a) (as redesignated by subsection (a)) is
21 amended—

22 (A) by striking “\$100,000” and inserting
23 “\$250,000”,

24 (B) by striking “\$500,000” and inserting
25 “\$1,000,000”, and

1 (C) by striking “3 years” and inserting “5
2 years”.

3 (c) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall apply to underpayments and overpayments at-*
5 *tributable to actions occurring after the date of the enact-*
6 *ment of this Act.*

7 **SEC. 626. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
8 **INTEREST ON UNDERPAYMENTS RELATED TO**
9 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
10 **MENTS.**

11 (a) *GENERAL RULE.*—*If—*

12 (1) *a taxpayer eligible to participate in—*

13 (A) *the Department of the Treasury’s Off-*
14 *shore Voluntary Compliance Initiative, or*

15 (B) *the Department of the Treasury’s vol-*
16 *untary disclosure initiative which applies to the*
17 *taxpayer by reason of the taxpayer’s under-*
18 *reporting of United States income tax liability*
19 *through financial arrangements which rely on*
20 *the use of offshore arrangements which were the*
21 *subject of the initiative described in subpara-*
22 *graph (A), and*

23 (2) *any interest or applicable penalty is imposed*
24 *with respect to any arrangement to which any initia-*
25 *tive described in paragraph (1) applied or to any un-*

1 *derpayment of Federal income tax attributable to*
 2 *items arising in connection with any arrangement*
 3 *described in paragraph (1),*

4 *then, notwithstanding any other provision of law, the*
 5 *amount of such interest or penalty shall be equal to twice*
 6 *that determined without regard to this section.*

7 *(b) DEFINITIONS AND RULES.—For purposes of this*
 8 *section—*

9 *(1) APPLICABLE PENALTY.—The term “applica-*
 10 *ble penalty” means any penalty, addition to tax, or*
 11 *fine imposed under chapter 68 of the Internal Rev-*
 12 *enue Code of 1986.*

13 *(2) VOLUNTARY OFFSHORE COMPLIANCE INITIA-*
 14 *TIVE.—The term “Voluntary Offshore Compliance*
 15 *Initiative” means the program established by the De-*
 16 *partment of the Treasury in January of 2003 under*
 17 *which any taxpayer was eligible to voluntarily dis-*
 18 *close previously undisclosed income on assets placed*
 19 *in offshore accounts and accessed through credit card*
 20 *and other financial arrangements.*

21 *(3) PARTICIPATION.—A taxpayer shall be treated*
 22 *as having participated in the Voluntary Offshore*
 23 *Compliance Initiative if the taxpayer submitted the*
 24 *request in a timely manner and all information re-*
 25 *quested by the Secretary of the Treasury or his dele-*

1 gate within a reasonable period of time following the
2 request.

3 (c) *EFFECTIVE DATE.*—The provisions of this section
4 shall apply to interest, penalties, additions to tax, and fines
5 with respect to any taxable year if as of the date of the
6 enactment of this Act, the assessment of any tax, penalty,
7 or interest with respect to such taxable year is not prevented
8 by the operation of any law or rule of law.

9 **PART III—EXTENSION OF IRS USER FEES**

10 **SEC. 631. EXTENSION OF IRS USER FEES.**

11 (a) *IN GENERAL.*—Section 7528(c) (relating to termi-
12 nation) is amended by striking “December 31, 2004” and
13 inserting “September 30, 2013”.

14 (b) *EFFECTIVE DATE.*—The amendment made by this
15 section shall apply to requests after the date of the enact-
16 ment of this Act.

17 **PART IV—OTHER REVENUE PROVISIONS**

18 **SEC. 641. REPORTING OF TAXABLE MERGERS AND ACQUISI-**
19 **TIONS.**

20 (a) *IN GENERAL.*—Subpart B of part III of subchapter
21 A of chapter 61 is amended by inserting after section 6043
22 the following new section:

23 **“SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.**

24 “(a) *IN GENERAL.*—The acquiring corporation in any
25 taxable acquisition shall make a return (according to the

1 *forms or regulations prescribed by the Secretary) setting*
 2 *forth—*

3 “(1) *a description of the acquisition,*

4 “(2) *the name and address of each shareholder of*
 5 *the acquired corporation who is required to recognize*
 6 *gain (if any) as a result of the acquisition,*

7 “(3) *the amount of money and the fair market*
 8 *value of other property transferred to each such share-*
 9 *holder as part of such acquisition, and*

10 “(4) *such other information as the Secretary*
 11 *may prescribe.*

12 *To the extent provided by the Secretary, the requirements*
 13 *of this section applicable to the acquiring corporation shall*
 14 *be applicable to the acquired corporation and not to the*
 15 *acquiring corporation.*

16 “(b) *NOMINEE REPORTING.—Any person who holds*
 17 *stock as a nominee for another person shall furnish in the*
 18 *manner prescribed by the Secretary to such other person*
 19 *the information provided by the corporation under sub-*
 20 *section (d).*

21 “(c) *TAXABLE ACQUISITION.—For purposes of this sec-*
 22 *tion, the term ‘taxable acquisition’ means any acquisition*
 23 *by a corporation of stock in or property of another corpora-*
 24 *tion if any shareholder of the acquired corporation is re-*

1 *quired to recognize gain (if any) as a result of such acquisi-*
 2 *tion.*

3 “(d) *STATEMENTS TO BE FURNISHED TO SHARE-*
 4 *HOLDERS.*—Every person required to make a return under
 5 subsection (a) shall furnish to each shareholder whose name
 6 is required to be set forth in such return a written statement
 7 showing—

8 “(1) the name, address, and phone number of the
 9 information contact of the person required to make
 10 such return,

11 “(2) the information required to be shown on
 12 such return with respect to such shareholder, and

13 “(3) such other information as the Secretary
 14 may prescribe.

15 *The written statement required under the preceding sen-*
 16 *tence shall be furnished to the shareholder on or before Jan-*
 17 *uary 31 of the year following the calendar year during*
 18 *which the taxable acquisition occurred.”.*

19 (b) *ASSESSABLE PENALTIES.*—

20 (1) Subparagraph (B) of section 6724(d)(1) (de-
 21 fining information return) is amended by redesign-
 22 ating clauses (ii) through (xviii) as clauses (iii)
 23 through (xix), respectively, and by inserting after
 24 clause (i) the following new clause:

1 “(ii) section 6043A(a) (relating to re-
 2 turns relating to taxable mergers and acqui-
 3 sitions),”.

4 (2) Paragraph (2) of section 6724(d) (relating to
 5 definitions) is amended by redesignating subpara-
 6 graphs (F) through (BB) as subparagraphs (G)
 7 through (CC), respectively, and by inserting after sub-
 8 paragraph (E) the following new subparagraph:

9 “(F) subsections (b) and (d) of section
 10 6043A (relating to returns relating to taxable
 11 mergers and acquisitions).”.

12 (c) CLERICAL AMENDMENT.—The table of sections for
 13 subpart B of part III of subchapter A of chapter 61 is
 14 amended by inserting after the item relating to section 6043
 15 the following new item:

“Sec. 6043A. Returns relating to taxable mergers and acquisitions.”.

16 (d) EFFECTIVE DATE.—The amendments made by this
 17 section shall apply to acquisitions after the date of the en-
 18 actment of this Act.

19 **SEC. 642. MODIFICATION OF DEFINITION OF CONTROLLED**
 20 **GROUP OF CORPORATIONS.**

21 (a) IN GENERAL.—Section 1563(a)(2) (relating to
 22 brother-sister controlled group) is amended by striking
 23 “possessing—” and all that follows through “(B)” and in-
 24 serting “possessing”.

1 (b) *APPLICATION OF EXISTING RULES TO OTHER*
 2 *CODE PROVISIONS.*—Section 1563(f) (relating to other defi-
 3 *nitions and rules*) is amended by adding at the end the
 4 *following new paragraph:*

5 “(5) *BROTHER-SISTER CONTROLLED GROUP DEF-*
 6 *INITION FOR PROVISIONS OTHER THAN THIS PART.*—

7 “(A) *IN GENERAL.*—Except as specifically
 8 *provided in an applicable provision, subsection*
 9 *(a)(2) shall be applied to an applicable provision*
 10 *as if it read as follows:*

11 “(2) *BROTHER-SISTER CONTROLLED GROUP.*—
 12 *Two or more corporations if 5 or fewer persons who*
 13 *are individuals, estates, or trusts own (within the*
 14 *meaning of subsection (d)(2) stock possessing—*

15 “(A) *at least 80 percent of the total com-*
 16 *bined voting power of all classes of stock entitled*
 17 *to vote, or at least 80 percent of the total value*
 18 *of shares of all classes of stock, of each corpora-*
 19 *tion, and*

20 “(B) *more than 50 percent of the total com-*
 21 *bined voting power of all classes of stock entitled*
 22 *to vote or more than 50 percent of the total value*
 23 *of shares of all classes of stock of each corpora-*
 24 *tion, taking into account the stock ownership of*
 25 *each such person only to the extent such stock*

1 *ownership is identical with respect to each such*
2 *corporation.’*

3 “(B) *APPLICABLE PROVISION.*—*For pur-*
4 *poses of this paragraph, an applicable provision*
5 *is any provision of law (other than this part)*
6 *which incorporates the definition of controlled*
7 *group of corporations under subsection (a).’.*

8 (c) *EFFECTIVE DATE.*—*The amendments made by this*
9 *section shall apply to taxable years beginning after the date*
10 *of the enactment of this Act.*

Attest:

Secretary.

108TH CONGRESS
2^D SESSION

H. R. 1528

AMENDMENT